SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1869.

No. [illegible]

THE UNITED STATES, APPELLANT,

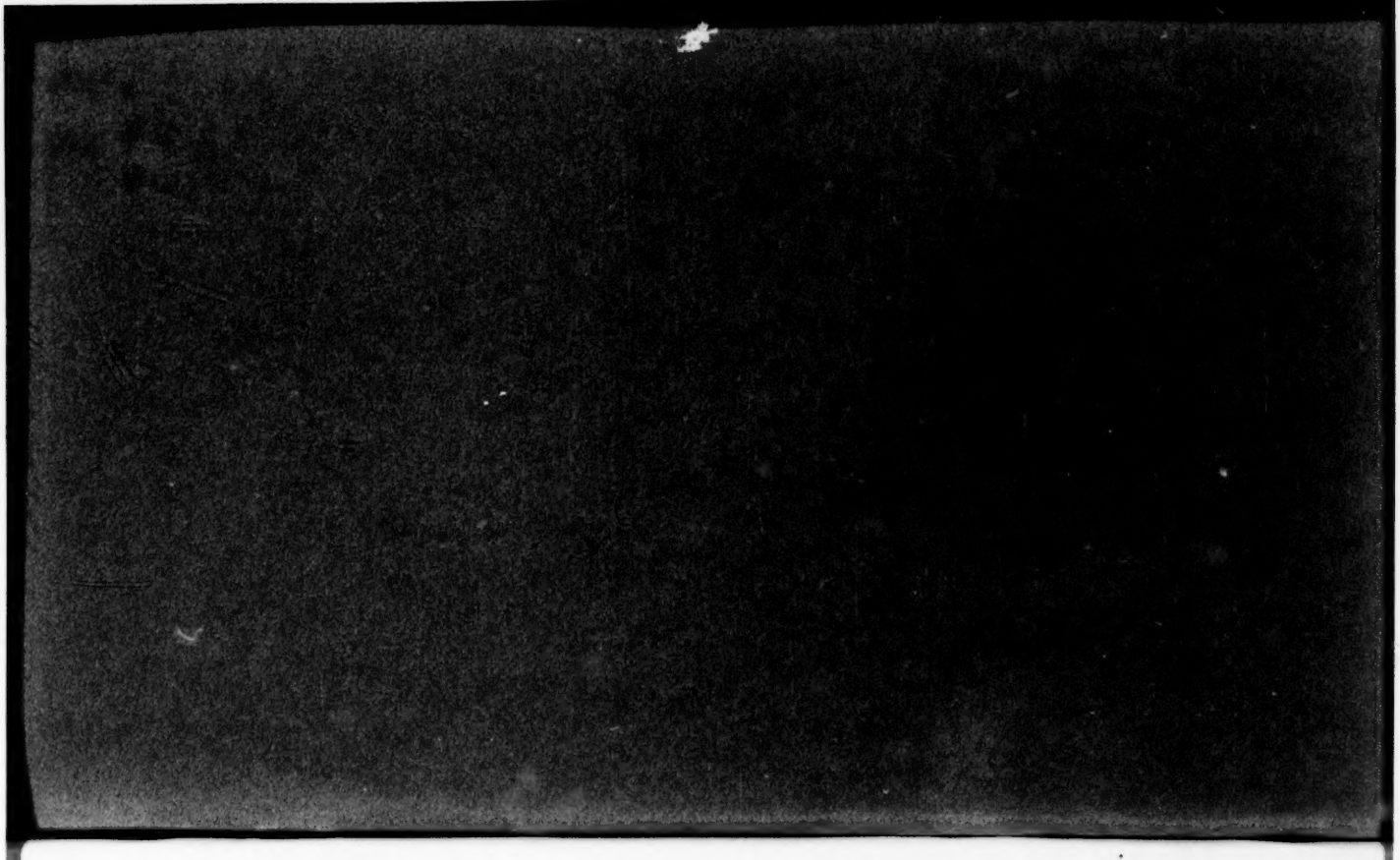
vs.

CLARENCE E. GLOVER, SOUTH SIMPSON, THOMAS R. CATRON, ET AL.

APPEAL FROM THE COURT OF PRIVATE LAND CLAIMS.

FILED NOVEMBER [illegible], 1869.

(SEPIA.)



SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1898.

No. 200.

THE UNITED STATES, APPELLANT.

vs.

CLARENCE P. ELDER, SMITH SIMPSON, THOMAS B. CATRON, ET AL.

APPEAL FROM THE COURT OF PRIVATE LAND CLAIMS.

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1 UNITED STATES OF AMERICA,
Territory of New Mexico, ss:

Be it remembered that heretofore, to wit, on the 18th day of February, A. D. 1893, there was filed in the office of the clerk of the Court of Private Land Claims, at the city of Santa Fe, in the Territory of New Mexico, a petition; which said petition is in the words and figures following, to wit:

2 THE UNITED STATES OF AMERICA.

In the Court of Private Land Claims, sitting in the City of Santa Fe, New Mexico.

CLARENCE P. ELDER AND THOMAS B. Catron, plaintiffs,
vs.
THE UNITED STATES, DEFENDANT.

To the Honorable Joseph R. Reed, chief justice, and the honorable associate justices of said court:

Clarence P. Elder and Thomas B. Catron, citizens of the United States, the first named a resident of the city of Denver, in the State of Colorado, and the second of the city of Santa Fe, in the Territory of New Mexico, and Smith Simpson, of the county of Taos, in said Territory, plaintiffs, bring this their petition against the United States of America, defendant; and thereupon represent and show unto this honorable court as follows:

First. That on December 31, 1845, Manuel Armijo, governor of New Mexico, then a department of the Mexican Republic, made, according to the laws, usages, and customs of said Republic, a grant of land to Juan Carlos Santistevan José Manuel Garcia, Julian Santistevan, Carlos Ortivis, and Tomás Ortivis, said land grant lying and being situate in what is now known as the county of Taos, bounded and described as follows, to wit: On the north by the limits of the Rio Colorado tract; on the south by the dividing line of the San Cristóbal; on the east by the mountains, and on the west by the rocky bluffs of the Rio del Norte.

Second. The original papers and documents relating to this grant of land are now on file in the office of the United States surveyor-general of the Territory of New Mexico, said grant being known and designated in that office as No. 61, grant to Carlos Santiestevan et al. for the Cebella tract of land in Taos County. Said original papers are not in the control of the petitioners so that they can file them herewith. A copy of the same, which are in the Spanish language, in duplicate, together with a translation, also in duplicate, is filed herewith, marked "Exhibit A."

Third. On March 25, 1872, the surveyor-general of New Mexico recommended this said grant for confirmation by the Congress of the United States, and his opinion and the proper papers, as required by law, were transmitted through the proper channels for the action of the Congress of the United States on April 1, 1872.

3 Fourth. A survey of this tract was made in November, 1877, by direction of the General Land Office, and it was approved by the United States surveyor-general of New Mexico on October 16, 1878.

A plat of said survey, showing an area of 17,159.57 acres is now in the records of the office of the said surveyor-general. Said survey was not made in accordance with the boundaries set forth in the original documents of said grant, but of a different portion of land, a part or all of which is included in the said grant.

A sketch map of the said grant, showing the area and boundaries of the same as near as may be, is filed herewith, marked "Exhibit B."

The lands embraced within the limits of the said grant contain no known mines or minerals of gold, silver, or quicksilver.

Fifth. The petitioners are the owners in fee of the said Cebella tract of land by purchase from the heirs and assigns of the original grantees, whose names are given above, and they claim a perfect title to the same. The title of the original grantees, their heirs and assigns, in and to the said grant of land was complete and perfect at the date when the United States acquired sovereignty over said Territory of New Mexico, and the land has been in the peaceable and undisputed possession of the original grantees, their heirs and assigns and legal representatives, from the making of the grant to the present time.

Sixth. There are no persons in possession of or claiming said grant of land, or any part thereof, otherwise than by the lease or permission of the petitioners.

The petitioners therefore pray that this their petition be considered by this honorable court, and the validity of said grant so made as aforesaid be inquired into and decided, and that the said tract and grant of land, with the boundaries as set forth in the original documents making said grant, be confirmed unto the petitioners, the legal representatives of the original grantees, forever, and for such other and general relief as to this honorable court may seem meet and proper and as the nature of the case may require.

CATRON & COONS,
Attorneys for Petitioners.

4 And be it further remembered, to wit, on the 23d day of March, A. D. 1893, a summons was issued by the clerk of said court, which said summons, with all endorsement' thereon, is as follows, to wit:

5 *Summons.*

In the U. S. Court of Private Land Claims.

UNITED STATES OF AMERICA,
District of New Mexico, ss:

CLARENCE P. ELDER ET AL., PLAINTIFF', } Petition filed in the clerk's
versus } office this day of
THE UNITED STATES, DEFENDANT. } , A. D. 189 .

The President of the United States of America to Matt. G. Reynolds, esq., attorney for the U. S. Court of Private Land Claims, greeting:

You, and each of you, are hereby notified that an action has been brought in said court by Clarence P. Elder et al., plaintiff", against you as defendant, under the provisions of the act of the Congress of the United States entitled "An act to establish a Court of Private Land Claims, and to provide for the settlement of private land claims in certain States and

Territories," approved March 3, 1891, and that a copy of the petition of said plaintiff" is herewith attached and served upon you, and that you are required to appear and plead, demur or answer, to the petition filed in said action in said court within thirty days from the date of service of this summons upon you; and if you fail so to do the said plaintiff" will take default, according to the provisions of the aforesaid act.

Witness the honorable Joseph R. Reed, chief justice of the Court of Private Land Claims, and the seal of the said court, at the city of Santa Fe, in said district, this 23d day of March, A. D. 1893, and of the Independence of the United States the year.

[SEAL] JAMES H. REEDER, *Clerk*,
By IRENEO L. CHAVES, *Deputy Clerk*.

6 *Proof of service.*

UNITED STATES OF AMERICA,
District of New Mexico, ss:

SANTA FE, *April 21, A. D. 1893.*

I hereby certify that I received the within writ on the 23 day of March, A. D. 1893, and that I have personally served the same upon the said defendant U. S.

Served on me this the 29 day of March, 1893.

MATT. G. REYNOLDS,
U. S. Attorney.

This writ, therefore, returned by me as the law directs, this 21st day of April, A. D. 1893.

TRINIDAD ROMERO,
Marshal,
By SERAPIO ROMERO,
Deputy Marshal.

Marshal's fees, 1 summons, $4.00.

(Indorsed:) Gen. No. 108. F. No. 2. U. S. Court of Private Land Claims, district of New Mexico. Clarence P. Elder, plaintiff, versus the United States, defendant. Summons. Filed this 21st day of April, A. D. 1893. James H. Reeder, clerk, by Ireneo L. Chaves, deputy clerk. Catron and Coons, of Santa Fe, N. M., attorney' for plaintiff".

7 And be it further remembered that thereafter, to wit, on the 16th day of April, A. D. 1895, an answer was filed in the office of the clerk, which said answer is in the words and figures following, to wit:

8 UNITED STATES OF AMERICA, ss.

In the Court of Private Land Claims, Santa Fe district, May term, 1895.

CLARENCE P. ELDER ET AL., PLAINTIFFS, *versus* UNITED STATES, DEFENDANT. } No. 108.

Answer.

Comes now the United States by its attorney, Matt. G. Reynolds, and for answer to the petition filed in the above-entitled cause says:

That for aught it knows to the contrary, the matters and things in said

petition alleged may be true, but having no knowledge or information sufficient to enable it to form a belief as to whether they are true, and not confessing any of them to be true in the manner and form as the same are in said petition set forth and alleged, it asks that plaintiffs be put to their proof of all the allegations therein contained, as provided they shall be by the act of Congress approved March 3, 1891, under which this court assumes jurisdiction of this controversy; and that they shall be put to their proof as to their pretended interest in said alleged grant.

Now, having fully answered, it prays the court that a decree may be entered rejecting the claim for said alleged grant and dismissing the petition, and for such other orders as to the court may seem meet and proper, and which it may be authorized to make in the premises.

Respectfully submitted.

MATT. G. REYNOLDS,
U. S. Attorney.

9 And be it further remembered that thereafter, to wit, on the 28th day of August, A. D. 1896, the same being a day of the regular August term, 1896, holden at the city of Santa Fe, Territory of New Mexico, the following, among other proceedings, were had, to wit:

CLARENCE P. ELDER
vs. } Juan C. Santistevan grant. No. 108.
THE UNITED STATES.

This cause now coming on to be heard there appeared T. B. Catron, esq., for the plaintiff, and W. H. Pope, esq., Assistant U. S. Attorney, appeared for the said defendant, The United States. The parties announcing themselves ready, the trial of the cause was proceeded with on the pleadings presented; oral and documentary proof was introduced. After hearing the arguments of the counsel the said cause was taken under advisement by the court.

10 On the trial of said cause the following testimony, oral and documentary, was offered and introduced:

11 In the Court of Private Land Claims, Santa Fe, New Mexico, August term, 1896.

CLARENCE P. ELDER ET AL.
versus } Juan C. Santistevan grant. No. 108.
UNITED STATES.

On August 28th, 1896, the above-entitled cause was called up for trial, and the following proceedings were had therein in open court:

Appearances: Messrs. Catron, Spiess & Gortner for the plaintiffs. Wm. H. Pope, esq., Assistant U. S. Attorney for the Government.

Mr. CATRON. I will read the petition.

We offer in evidence the original grant, copies, and translations. It comes from the surveyor-general's office. (Marked "Plaintiffs' Exhibit A.")

We offer in evidence the decision of the surveyor-general in this case, and the records of the surveyor-general's office. (Marked "Plaintiffs' Exhibit B.")

CHARLES M. CONKLIN, sworn on behalf of the plaintiffs, testified upon direct examination by Mr. Catron, as follows:

Q. Give your name, age, and residence.

A. My name is Charles M. Conklin; I am 55 years old; I live in Santa Fe, New Mexico.

Q. Did you know Augustin Duran?

A. Yes.

Q. Is he living or dead?

A. He is dead.

Q. How long has he been dead?

A. I do not recollect; 15 or 20 years.

Q. Did you know Juan Quintana?

A. Yes.

Q. Is he living or dead?

A. He is dead.

Q. About how long has he been dead?

A. I do not recollect; about two years ago.

Q. That is all.

We also offer in evidence the petition of claimants before the surveyor-general. (Marked "Plaintiffs' Exhibit S.")

12 Also the testimony of Agustin Duran and Juan Quintana, taken before the surveyor-general. (Marked "Plaintiffs' Exhibit C.")

We also offer in evidence certified copy of a deed from Juan Carlos Santistevan to Felipe Gonzales. (Marked "Plaintiffs' Exhibit G 14.")

Also deed from Maria Gregoria Medina to Felipe Gonzales. (Marked "Plaintiffs' Exhibit I number 16.")

Also deed from Maria Marta Romero to Felipe Gonzales. (Marked "Plaintiffs' Exhibit H 15.")

Also deed from Francisco Barela and wife to Felipe Gonzales. (Marked "Plaintiffs' Exhibit J 7.")

Also deed from Agapito Duran and wife, Guadalupe Gonzales, to Felipe Gonzales. (Marked "Plaintiffs' Exhibit K 18.")

Also deed from Francisco Gonzales to Donacio Gonzales. (Marked "Plaintiffs' Exhibit L 19.")

Also deed from Satrino Gonzales to Dionacio Gonzales. (Marked "Plaintiffs' Exhibit M 20.")

Also deed from Dionacio Gonzales and wife to John T. Graham. (Marked "Plaintiffs' Exhibit N 21.")

Also deed from Felipe Gonzales and wife to J. T. Graham. (Marked "Plaintiffs' Exhibit N 22.")

Also deed from John T. Graham to William Blackmore. (Marked "Plaintiffs' Exhibit O 23.")

We also offer in evidence decree of the district court of Taos County, New Mexico, in a case of Clarence P. Elder vs. Land Company of New Mexico (lim.), dated August 4th, 1891. (Marked "Plaintiffs' Exhibit No. 403.")

Mr. POPE. We object to its introduction; no foundation laid for it; and it is not the best evidence.

We also offer in evidence copy of agreement between Clarence P. Elder and New Mexico Land Company, filed in the clerk's office of Taos County, July 27, 1891. (Marked "Plaintiffs' Exhibit P.")

Mr. POPE. We object to it because it is not the best evidence.

We also introduce in evidence the bill of complaint of Clarence
13 P. Elder in the district court of Taos County, New Mexico, chancery, vs. The New Mexico Land Company, limited, filed April 4, 1891. (Marked "Plaintiffs' Exhibit E.")

Mr. POPE. We object to it for the same reasons.

We also offer in evidence the report of sale by special master, and deed of the sheriff of Taos County, New Mexico. (Marked "Plaintiffs' Exhibit F.")

Mr. POPE. We make the same objections on the grounds before noted.

We also introduce in evidence quit-claim deed from Wm. L. McClure and wife to S. H. Simpson. (Marked "Plaintiffs' Exhibit G.")

Mr. POPE. We make the same objections.

EZRA REDDING, a witness of lawful age, being produced, sworn, and examined on the part of the plaintiffs, testified on direct examination by Mr. Catron, as follows:

Q. State your name, age, and residence?

A. My name is Ezra Redding; I reside in Questa, Taos County, New Mexico.

Q. How long have you resided there?

A. About thirty years.

Q. Are you acquainted with the property which is under investigation known as the Santistevan grant?

A. Yes.

Q. How far do you reside from that property?

A. About a mile.

Q. Have you always resided in that section since you lived in Taos County?

A. Yes.

Q. Are you acquainted with that property?

A. Yes.

Q. Are you acquainted with the boundaries of it?

A. Yes.

Q. Do you speak Spanish?

A. Yes.

Q. Are you acquainted with the place designated los limitrofes de posecion de el Rio Colorado?

A. Yes.

Q. Where is that point or place?

A. It would be at the top of the bluffs or center of the settlements.

Q. At what point do the possessions of the Rio Colorado reach—actually possess?

A. They reach to the top of the bluffs, on the south side of the Red River.

Q. How far from Red River is that?

A. Few hundred yards.

14 Q. How wide is it at the eastern end from the Rio Colorado?

A. It would be about four hundred yards.

Q. At the western end how is it?

A. It comes down to nothing, to a point.

Q. What mountains are on the east, if you know?
A. The San Cristoval Range, I believe.
Q. Do you know the point called the la linia divisora de San Cristoval?
A. Yes; I think I do.
Q. Where is it with reference to any particular natural object that is there?
A. I think it is about to the channel where the people of San Cristoval irrigate with.
Q. Is that the point where you have always understood it to be?
A. Yes.
Q. How have you known that point?
A. By conversation with different persons; people I purchased from.
Q. What do you mean by purchasing from?
A. I negotiated the purchase there.
Q. For whom?
A. For John T. Graham.
Q. What is the San Cristoval?
A. It is a creek.
Q. Are there people residing there?
A. Yes.
Q. Were there when you first knew this property?
A. Yes.
Q. Thirty years ago, you say?
A. Yes.
Q. How far does that land which they occupy on the San Cristoval extend from that creek north?
A. All along up to the ditch.
Q. How far is that ditch from the river?
A. It is a three-cornered piece; it would be probably in some places 5 or 6 hundred yards, and then it runs to nothing.
Q. Does that ditch come from the San Cristoval Creek?
A. Yes.
Q. Is that the ditch that is used as the dividing line?
A. Yes.
Q. Do you know a point called el filo del penasco del el Rio del Norte?
A. Yes; it is a high bluff, just going down the Rio Grande River.
Q. How is that bluff at that point?
A. It is almost perpendicular.
Q. How close does it come down to the river at that point?
A. It comes right straight down from the top of the bluff right down to the river.
15 Q. What is the filo?
A. The top of the ridge, the top of the bluff just above where it comes down to the edge of the bluff.
Q. Do you know Juan C. Santistevan?
A. Yes.
Q. Do you know Jose Manual Garcia?
A. No.
Q. Do you know Julian Santistevan?
A. Yes.
Q. Do you know Carlos Ortivis?
A. Yes.

Q. Tomas Ortivis?
A. Yes.
Q. Do you know where he resides now?
A. Huerfano, Colorado.
Q. Who occupied this, if anybody, when you first knew it?
A. Felix Gonzales.
Q. Is he one of the parti's from whom you purchased the property?
A. Yes.
Q. What interest did he claim to have in it?
A. Two-thirds, I believe.
Q. By virtue of what right?
A. I think he purchased from his father; I am not certain.
Q. Who was his father?
A. I do not know.
Q. Where was he residing at the time you saw him?
A. On the ranch at Cebolla.
Q. That is within this property?
A. Yes.
Q. What was he doing?
A. He was farming.
Q. Did he have his residence there?
A. Yes.
Q. How much of a house did he have?
A. He had an adobe of two rooms; he had a two-roomed log house, if I am not mistaken; they were together.
Q. What cultivated lands did he have there, if any—Felix Gonzales?
A. Several hundred yards square.
Q. Did you see any enclosure?
A. Yes.
Q. What were they?
A. Fences.
Q. You say you have known this land for 30 years?
A. Yes.
Q. That is all.

Cross-examination by Mr. POPE:

Q. Where did you say you live?
A. At Questa, Red River, New Mexico.
Q. That is north of Red River?
A. Yes.
Q. How long have you been living there?
A. Thirty years.
Q. Where did you live before that?
A McGregor, Iowa.
Q. When you first knew this property Felix Gonzales was occupying it?
16 A. Yes.
Q. He was claiming a two-thirds interest in it?
A. I think he had that; I am not certain what he claimed.
Q. He claimed a large interest?
A. Yes.

Q. He was the only one living there at that time?
A. Yes.
Q. On this tract?
A. Yes.
Q. He was cultivating, you say, several hundreds square?
A. Yes; I think he was.
Q. How many acres, at the outside, do you suppose it was?
A. Well, it might have been 12 or 15 acres, maybe 20; I do not know particularly.
Q. You do not think it was more than 12 or 15 acres?
A. No; there was other land he had not in that year.
Q. How much did he have enclosed?
A. Several hundred yards; I did not particularly notice it.
Q. All the land that he had cultivated was in this enclosure?
A. Yes; I think so.
Q. That was the enclosure around his residence?
A. Yes.
Q. There was no other enclosure on the property that you know of?
A. No; not that I recollect.
Q. Do you know where the Rio del Lama creek is?
A. Yes.
Q. Where was this enclosure with reference to that creek; how far was it from the creek?
A. Four or five miles, I should think; maybe three or four.
Q. Four or five miles east of the creek?
A. No; the farm was west of the creek; that creek comes down like this [indicating].
Q. Where does this creek empty?
A. It empties into Red River.
Q. You say there are mountains there on the east?
A. The San Cristoval Mountains; yes.
Q. Where does this stream rise with reference to the mountains?
A. It rises in the mountains.
Q. Do you know an old trail that goes along there?
A. Yes.
Q. This stream *corsses* that trail?
A. Yes.
Q. Where do the cultivated lands start?
Mr. CATRON. We object, as irrelevant and immaterial.
17 A. They cultivate most on the place under the creek.
Q. There is no land cultivated east of this road, this old trail?
A. No; I believe not.
Q No land can be cultivated that is in the mountains east of that?
A. Lots of it can be cultivated.
Q. I mean east of this road it is all mountainous, is it?
A. Well, for some distance from the trail up to the mountains there are foot hills there.
Q. Is this Lama stream a constant stream?
A. Yes; the water would run in it all the time if they would not take it out for cultivation.
Q. At what point do they take it out for cultivation?

A. It is taken out above the trail.
Q. Is it cultivated above the trail?
A. Yes.
Q. How far above the trail is it taken out?
A. A few hundred yards.
Q. How far down is it cultivated?
A. Well, it would be about 6 miles.
Q. That is down stream in the neighborhood of where Felix Gonzales is?
A. Yes.
Q. I believe you are representing some parties in connection with this grant?
A. No, sir.
Q. You have represented the parties who claim to be owners?
A. Up to the time of their purchase.
Q. How long ago was that?
A. In '71.
Q. You have not had any connection with the grant owners since that?
A. No, sir.
Q. Do you know Severino Martin and Jose Martin, or ever heard of them?
A. No; I think not.
Q. Do you know Matias Cisneros, who lived at Rio Colorado?
A. Yes; I did.
Q. You remember when there were quite a number of settlers living on the Rio Colorado about that time, some years ago, and do you recollect of their filing a petition with the surveyor-general for the confirmation of the Rio Colorado grant?
Mr. CATRON. We object, because it is irrelevant, immaterial, and impertinent.
18 The COURT. It is a preliminary question.
A. Yes, sir; I do.
Q. They were petitioning for the grant that they claimed at that time, were they not?
Mr. CATRON. We object, as it is not the best evidence, and it is irrelevant, immaterial, and impertinent.
A. Yes.
Q. That was some time along about 1873, was it not; 20 years ago?
Mr. CATRON. Same objections.
A. I do not recollect exactly; I suppose it was about that time; I am not certain. I recollect about them telling me about it.
Q. Do you remember when they presented their claim to the surveyor-general some years ago?
A. No, sir.
Q. You remember that they did present it?
Mr. CATRON. We object, because it is irrelevant, immaterial, and impertinent, and not cross-examination.
A. No, sir.
Q. That country ascends this way until it reaches the ridge you have mentioned?

A. Yes.

Q. And then it descends again to the Lama Creek, I believe; does it? It goes to the divide and then ascends to the Lama?

A. Yes, sir.

Q. The Lama Creek is the next stream beyond this divide?

A. Yes.

Q. This divide reaches out west, I believe, does it?

A. Yes; northwest.

Q. Where does this divide end?

A. In the Red River. It runs down the Red River about four or five miles to the Rio Grande River.

Q. It crosses the Lama River; that divide there is practically a continuation of this one that goes to the Rio Grande River?

A. This ridge?

Q. Yes.

A. No, I do not think so; that is north of the river, but it does not extend there.

Q. North of what river?

A. North of the Red River.

Q. Is this the one that runs to the Red River?

A. It is a plain a little ways east of the Rio Grande River.

19 Q. From the Lama Creek the country ascends to a mesa, don't it?

A. It comes up to the bank and then descends down quite a plain.

Q. After it goes through that plain the topography of the country then rises, don't it?

A. It rises and falls; there are hills there.

Q. How far is the Garrapata Cañada from Lama Creek?

A. I suppose it is about a mile and a half up to the mountains, and below it is some distance; it runs in this way [indicating].

Q. The Cañada Garrapata runs east and west, does it?

A. Yes; towards the Rio Grande.

Q. Do you know where it comes out on the Rio Grande?

A. I never was where it empties.

Q. Are you acquainted with a wagon road that crosses the Cañada Garrapata?

A. Yes, sir.

Q. After the wagon road goes from Cañada it ascends quite a steep place and then goes down into the San Cristoval, I believe?

A. Yes; quite a distance.

Q. There is quite a steep ascent on the south side of the Cañada Garrapate?

A. Yes, sir.

Q. As I understand it, the lands that are irrigated by the Lama are between the Cañada Garrapata and the divide?

A. Yes; and west—down west near the Rio Grande.

Q. All the land that is irrigated is north of this Cañada Garrapata?

A. Yes; it was irrigated up to the Garrapata at one time.

Q. And all the lands that are irrigated is south of the ridge, which is south of the Rio Colorado?

A. Yes.

Q. The fact is, that the waters from the Lama can only be used to irrigate between these divides?

Mr. CATRON. We object, because it is irrelevant, immaterial, and impertinent.

A. Yes, sir.

Q. This divide south of the Rio Colorado is at some places two or three miles from the settlement of the Rio Colorado?

A. What divide do you mean?

Q. That divide that is south of the Rio Colorado, between the Lama Creek and the Rio Grande?

A. Yes.

Q. It is distant at some places?

A. Yes, up next to the mountains it is.

Q. And the Lama, as I understand it, runs west?

A. Yes, the Lama runs northwest.

Q. Is there a settlement known as Cebolla on this tract?

A. No, not on this tract; no, sir.

Q. Where is Cebolla with reference to it?

A. It is just north of the San Cristoval.

Q. How far from the present settlement of San Cristoval?

A. Right adjoining it.

Q. The south boundary of this Cebolla tract, how far is that from the present settlement of San Cristoval?

A. It is right at the settlement; the ditch is right there.

Q. That is right at the settlement of San Cristoval?

A. It is near a little north of the houses.

Q. The San Cristoval settlement has been there for quite a number of years?

A. I think so; it was there when I came there.

Q. The Cañada Garrapata is two or three miles north of this settlement of San Cristoval, is it?

A. Yes.

Q. You say that settlement is called Rio Colorado?

A. Yes, it is called Questa at present.

Q. Quite a number of Mexican people live there?

A. Yes.

Q. That is quite an old settlement, is it?

A. Yes.

Q. Was it there when you came there?

A. It was there in '62.

Q. The people have been planting there for a great many years?

A. Yes.

Q. You have mentioned the north boundary of this Cebolla tract as being the ridge on the south side of the Rio Colorado?

A. Yes; I have said the falls.

Q. It is not the ridge, then?

A. No.

Q. How far from this place you have mentioned as the north boundary is the planting lands?

A. It would be a few hundred yards.

Q. The top of the ridge south of the Rio Colorado, that would be two or three miles south of the settlement?

A. Yes.

21 Q. That is all.

Redirect examination by Mr. CATRON:

Q. I understood you in your examination in chief to say that the ridge south of the Rio Colorado, which was the boundary?

A. No; the falls, or the top of the bluffs, is what I said.

Q. How far up in the mountains does this Rio de la Lama rise?

A. From where?

Q. At its source, where does it rise?

A. It would be about three miles from the trail?

Q. How close up to the mountains does it commence?

A. Close up to the mountains; there are some springs there.

Q. How much of the land of this grant could be irrigated if channels were cut up close to the source of that stream?

A. I could not tell you that.

Q. Is all the land lying below the source of that stream?

A. Yes.

Q. State whether or not there is generally snow on the tops of these mountains.

A. Yes.

Q. There are streams running down from that snow at different points over the property?

Mr. POPE. We object, because it is leading.

The COURT. Proceed.

A. Yes.

Q. From these snows how much of the land of this grant could be irrigated by the water from these snows?

A. What portion of the grant?

Q. Yes.

A. I suppose probably a fourth of the grant.

Q. Taken out from the source of this Lama stream, could the waters be carried over into the San Cristoval Valley over that ridge, if you went up high enough?

A. Yes.

Q. And also over on the side of the mountain?

Mr. POPE. We object, because it is leading.

The COURT. He may answer it.

Yes.

Q. Then all the land that lies below the source of this stream could be irrigated?

Mr. POPE. We object, as it is leading.

22 A. Yes, sir.

Q. That would be nearly all of the grant?

Mr. POPE. We object to this line of examination; he has absolut'ly taken the witness and carried him along.

The COURT. We do not see what figure that cuts in the case.

Q. That is all.

Cross-examination by Mr. POPE:

Q. In order to do that you would have to take out a ditch at the to of the mountain?

A. You could take ditches out along at different places in the moun tains.

Q. You would have to take out a ditch right at the top of the moun tain to irrigate *of* this Lama Valley?

A. You could take out the water at different places.

Q. Take it right at the source of the river?

A. Yes, sir.

Q. The amount of water in the Lama is not sufficient to irrigate th whole of the Lama Valley, is it?

A. No; no, sir.

Q. It would not irrigate more than a small portion of it; that i entirely too small a creek?

A. The water sinks before it gets down.

Q. In fact, only a small portion could be irrigated?

A. A large portion of it, if it was saved.

Q. What fraction of the Lama Valley could be irrigated by wate from the Lama?

A. There could be half of it.

Q. That is all.

Mr. CATRON:

Q. That is, if you could take it from the source of the Lama?

A. Yes.

Q. And irrigate whatever part you could?

A. Yes.

Q. That is all.

JOSE YGNACIO GARCIA, a witness of lawful age, being produced sworn, and examined on the part of the plaintiffs, testified upon direc examination by Mr. Catron, as follows:

Q. State your name, age, and residence.

A. My name is Jose Ygnacio Garcia; I am 52 years old; I live a Costillo, Taos County, New Mexico.

Q. Do you know Jose Manuel Garcia?

A. I might have been seven years old when he died; he was m father.

23 Q. Where did he reside when he died?

A. In Arroyo Hondo.

Q. Do you know the property under investigation here, called th Cebolla grant?

A. Since I have reached the age of reason I knew it, and I know i now at present.

Q. Did you ever reside on it when you were young?

A. No.

Q. Do you know the boundaries of that grant?

A. I know some of them.

Q. Do you know the point designated as the los limitrofes de poseeio de el Rio Colorado?

A. I know some of that.

Q. How long have you known that point?

A. Since I can remember.

Q. Where do the actual possessions of the Rio Colorado reach on the south?

A. I can not state.

Q. Where do you understand it to be? You said you knew something about it.

A. At a place called Caidos de la Lama on the west.

Q. How far from the Rio Colorado were these Caidos de la Lama?

A. On the east side, from north to south it is about five miles, and from west to north it cannot be over two yards where the Rio de la Lama empties into the Rio Colorado.

Q. Where is that point on the east side with reference to the top of the mountain?

A. Where the Lama empties out.

Q. Empties out from what? You say it is four or five miles on the eastern side from the Rio Colorado. How far from the top, measured from the top of the mountain, is it? You say it is four or five miles. Is it measured from the top of the mountain?

A. I can not state how far from the top of the mountain. At the place where the Lama empties into the Rio Colorado is what I said was four or five miles.

Q. Four or five miles on which side of the Rio Colorado?

A. On the south of the Rio Colorado.

Q. The Lama River empties into what stream?

A. It does not empty into any stream; it simply comes out of the mountains.

Q. You spoke of the Lama. Do you mean where it comes out of the cañon in the mountains?

Mr. POPE. We object; it is leading.

The COURT. It is leading.

Q. What do you mean by saying it empties out?

24 A. That the water comes from the mountains.

Q. How far up in the mountains does the Lama rise where it comes out from the mountain?

A. I know two little streams; they rise there and then join into one.

Q. How far above where the Lama comes out of the mountains does that rise?

A. More or less about a mile from the spring from the water hills.

Q. How far from the top of the mountain does that water rise?

A. From the place where the water rises to the top of the mountain it can not be less than two miles and a half.

Q. Do you know the place called la linia divisora de San Cristoval?

A. I know it exactly.

Q. Where is it?

A. Between Juan Santistevan and Carlos Santistevan, who had lands in the place La Cebolla. One sustained that the ridge or border of the San Cristoval was to be the south line from west to east, and the other one sustained that it was the bottom of the side of the hills.

Q. One of them sustained that it was the ridge. On which side of the San Christoval. Designate that ridge.

A. To the north.

Q. How far from the river?

A. About a quarter of a mile.

Q. And the place where the other one claimed it to be; how far was that from the river?

A. It might be less than a quarter of a mile?

Q. You said they had possessions at La Cebolla. At that time were *were* their possessions at La Cebolla?

A. Those possessions—they held them under a strip of land that lies between the Rio del Norte and a place called Garrapata.

Q. Was that within or without the limits of this grant—those pieces of land where they actually lived?

A. Yes, sir.

Q. When was it that you heard that controversy?

A. I cannot state positively whether it was the latter part of August or the first part of September, 1863.

Q. This was two of the grantees, was it, that had the talk?

A. They were brothers, and one of them was my brother-in-law.

Q. Were you acquainted with Carlos Santistevan; is he living or dead?

25 A. He died last year in Rouse.

Q. Did you know Julian Santistevan, and is he living or dead?

A. Julian Santistevan died in the county of Huerfeno in the year '88.

Q. Did you know Jose Manuel Garcia?

A. He was my father.

Q. Who was his wife?

A. Maria Marta Romero.

Q. Did your father have any other name than Jose Manuel Garcia?

A. Jose Manuel de los Lagos Garcia.

Q. State whether or not he was ever called Manuel Lagos Garcia?

A. That is the way he was called even many years after his death by some people.

Q. Your father was sometimes known by that name as well as Jose Manuel Garcia?

A. I was 7 years old when my father died, and I could not know how the people called him, although they told me so.

Q. Was that since his death that they designated him as Manuel Lagos Garcia?

A. That is his true name, Jose Manuel de los Lagos Garcia?

Q. Do you know what mountain lies to the east side of the Cebollo grant?

A. I do.

Q. What is the name of that mountain?

A. The Cerro Grande.

Q. Has it any particular name?

A. Cerro Grande or La Lama.

Q. Is that the main range of mountains, or is there any other mountain?

A. Yes, sir.

Q. Do you know a point called el filo del peñasco de el Rio del Norte?

A. Yes.

Q. Where is that with reference to this tract of land?

A. On the west.

Q. How close to the Rio Grande, designate it; what is the filo?

A. It is the edge of the bluff.

Q. How close does the Rio Grande run to that bluff at that point where the Cebollo grant comes to the filo?

A. I can not state, because it does not come in a straight line; it comes in steeps—benches.

Q. State whether or not there is a bluff there for several miles up and down?

A. I do not know.

Q. Have you ever been down the Rio del Norte at that place?

A. Yes.

Q. Now designate if you know how what that filo del penasco is.

A. That filo del penasco is in a rock, where the edge of the river runs.

26 Q. How extensive is that rock in length up and down the river?

A. From the place where the Rio Colorado empties out it may be 11 or 12 miles.

Q. How deep is that down to the bottom of the river from this place called the filo del penasco?

A. It may be more than half a mile from the edge of the rock to the water.

Q. Is that on the valley of the Rio Grande or down in a box canon?

A. It is a box canon.

Q. Do you know whether or not, prior to 1863, Carlos Santistevan, Julian Santistevan, Tomas Ortivis, Carlos Ortivis, and your father, or either of them, occupied lands within this grant?

Mr. POPE. We object, as it is leading.

The COURT. He may ask it.

A. Carlos Santistevan and Julian Santistevan occupied it at La Garrapata; my father and Carlos Santistevan occupied the La Cebolla at a place called La Cebolla.

Q. How far is La Cebolla from the Garrapata, where they had their possessions?

A. More or less, two miles and a half.

Q. What direction is Cebolla from Garrapata?

A. To the north.

The COURT. We will take a recess until two o'clock to-day.

The hour of two o'clock of August 28th, 1896, having arrived, the court resumed the further hearing of the above-entitled cause, and the following proceedings were had therein in open court:

Cross-examination of Ygnacio Garcia by Mr. POPE:

Q. You say Jose Manuel Garcia was your father's name?

A. Yes.

Q. Did you know Tomas Ortivis?

A. I knew him.

Q. I believe you said that Julian and Carlos Santistevan were the only one' of the grantees living on the grant when you first knew it?

A. Also my father and Carlos and Tomas Ortivis.

Q. Where were they living?

A. In the Arroyo Hondo.

Q. That is not on this grant is it?

A. No.

Q. You say Carlos and Julian Santistevan were the only ones living on the grant.

A. They lived there one summer.

Q. You have spoken of a controversy between Carlos and Julian Santistevan as to the south boundary of this tract?

A. Yes, sir.

27 Q. You say one of them said it was an acequia and the other one said that it was a ridge?

A. Yes, sir.

Q. Now, how far is that ridge from the present settlement of San Cristoval?

A. About two miles.

Q. Who was living on the San Cristoval tract at that time?

A. There were many people.

Q. Did you know Antonio Jose Martin?

A. Yes, sir.

Q. Was he living on that tract at that time?

A. No, sir; he lived in the town of Fernandez, in Taos County.

Q. Did you know Cevilleta Martines?

A. I knew Cevilleta Martines, who was the nephew of Father Martines.

Q. Antonuo Jose Martines and Cevilleta Martines were brothers?

A. Yes.

Q. Were they claiming this tract, the San Cristoval?

Mr. CATRON. We object to that, as it has no bearing on the boundady.

The COURT. We do not see any boundary to this question. Objection sustained.

Q. You have mentioned the north boundary of this tract?

A. I want to know what tract.

Q. Of the Cevolla tract.

A. Yes.

Q. Where is that with reference to the Rio del Lama—what direction?

A. After it comes out from the Rio de la Lama it turns towards the west and then goes towards the north until it joins the Rio Colorado.

Q. You say there is a ridge on the north side of the Rio de la Lama?

A. Yes.

Q. Is it the first ridge north of the Rio del Lama?

Mr. CATRON. We object as to what ridge it is.

The COURT. You may ask it.

A. Yes, sir.

Q. Where is the boundary with reference to that ridge—at the top of the ridge?

A. Yes, sir.

Q. How much of a stream is the Rio de la Lama?

A. The water is very little.
Q. Is it as large as the San Cristoval stream?
Mr. CATRON. We object.
A. No, sir.
Q. Is it as large as the Rio Colorado?
Mr. CATRON. We object.
A. It is much less.
28 Q. During the planting season, how much water runs in that river?
A. Take it in June, water is abundant, but after June at the place where the road passes there is scarcely any water for drinking at times.
Q. How much is this river capable of irrigating during the planting season?
Mr. CATRON. We object, as it is immaterial and irrelevant.
The COURT. It don't throw any light on the matter in the least; we don't think this would afford us any light on the subject at all, Mr. Pope.
Q. Did you ever have any conversation with Carlos Santistevan and Julian Santistevan as to the east boundary of this tract?
Mr. CATRON. We object, as it is improper, irrelevant, and immaterial and not proper cross-examination.
The COURT. It may be asked.
A. Yes, sir.
Q. Where did they state the eastern boundary to be of this tract?
Mr. CATRON. We object unless he states the whole of the conversation; it is irrelevant and immaterial and not binding upon us.
The COURT. Objection sustained.
Q. Do you know of a grant called the Rio Colorado grant?
Mr. CATRON. We object to that, because we did not introduce anything about that grant; it is not cross-examination.
The COURT. It may be asked.
A. I have not held it in my hands, but I have seen it in several meetings in Rio Colorado. They were held there for the purpose of making a copy of it.
Q. Where did the possession of these parties under this grant extend, with reference to that ridge; just above Rio del Lama?
Mr. CATRON. The grant is the best evidence; he had better introduce it.
The COURT. We suggest that you are not trying a case before a jury; we understand this is limited to the possessions and has reference to the possessions mentioned in the grant in question. It may be asked.
A. I do not know, but it was stated to be the Caydos de la Lama. I do not know anything of my own knowledge.
Mr. CATRON. I ask to strike that out as heresay.
The COURT. It is immaterial whether it is in or out; he says he don't know.
29 Q. That is all.

Redirect examination by Mr. CATRON:

Q. You do not know of your own knowledge any limits that were mentioned in that grant, do you, of the Rio Colorado?
A. No, sir.
Q. You did not read the grant over?
A. No, sir.

Q. You did not hear it read over?
A. No, sir.
Q. That is all.

ANTONIO LAFOURET, a witness of lawful age, being produced, sworn, and examined on the part of the plaintiffs, testified, upon direct examination by Mr. Catron, as follows:

Q. State your name, age, and residence.
A. My name is Antonio Lafouret; I am 67 years old; I live in Rio Colorado, in the county of Taos, New Mexico.
Q. How long have you resided at Rio Colorado?
A. Since the year '42.
Q. Where were you born?
A. Here at Arroyo Hondo, Taos County, New Mexico.
Q. How far is Arroyo Hondo from the town of Rio Colorado?
A. It is not far; I can not state the distance.
Q. Do you know the tract of land in controversy here with reference to which this controversy is now being had called the Cebolla grant?
A. Yes, sir.
Q. How long have you known that tract?
A. For many years.
Q. Are you able to read and write?
A. Yes.
Q. Look at that signature and state if it is yours?
A. Yes, sir.
Q. How long have you known the Cebolla grant?
A. I do not remember the years, but I have known it for a long time.
Q. Did you know it as early as '46 or '45?
A. Since the year '46 they were using it, and they had taken possession of it.
Q. Who possessed it?
A. A man named Carlos Santistevan—there were two—and Manuel Santistevan.
Q. Do you know a man named Julian Santistevan?
A. Yes.
Q. Was he one of them?
A. Yes.
Q. Did you know a man named Jose Manuel Garcia?
A. Jose Lagos Garcia?
Q. Yes; was he one of them?
A. Yes,
Q. Did you Tomas Ortivis?
A. Yes.
30 Q. And Carlos Ortivis?
A. Also.
Q. Were they brothers?
A. So they said.
Q. Do you know the boundaries of that grant?
A. I know it from information—from conversations.
Q. You have lived in Rio Colorado since '42, you say?
A. Yes.

Q. Do you know the extent—how far the actual possessions of the people at Rio Colorado extend—the lands that they actually occupied extended towards the south from the Rio Colorado in the years '45 and '46—the summer of '45 and January, '46; how far south from the river there did they*r* possessions actually extend?

A. The claimants claimed from that place to the place called La Lama.

Q. Where did the lands which they actually occupied extend to?

A. They extended to the river—to the bottom of the river.

Q. From the grant of Rio Colorado, how far did they extend towards the south—the lands that they actually occupied?

A. Very little.

Q. How many yards or varas?

A. I can not state; at some portions it might have been 500 and others less than 200.

Q. Where were these lands that they actually occupied situate?

A. There below, at the bottom of the river.

Q. In the bottom of which river?

A. On the Rio Colorado.

Q. Was that on the south side of the river where these lands they actually occupied terminated? What was it that terminated the lands they actually occupied?

A. There was nothing there except the place they said the limit was.

Q. I will ask you whether there were any hills or caydos there?

A. Yes.

Q. Did these lands that they actually occupied extend up to the hills, or below the hills?

A. It was said that they extended to the hills; on the top of the hills to the ridge.

Q. In what manner did they actually occupy the lands occupied by them?

A. By pasturing.

Q. Cultivating any?

A. No.

Q. No cultivation?

A. No.

Q. You say they extended from five hundred and two hundred varas from the river?

A. Yes; on this side of the river.

31 Q. What are the caydos that go down into the river there?

A. The place from which the water flows from this side of the river.

Q. What are the caydos of the Rio Colorado?

A. These places; they were so called at that place.

Q. Did the people of the Rio Colorado cultivate any lands?

A. Not this way.

Q. On which side did they cultivate lands?

A. Not far on both sides of the river, but on the bottom lands of the river.

Q. These were the lands where they had their actual possessions, were they?

A. Yes.

Q. Do you know what mountain is on the east side of this property?
A. Yes.
Q. What mountain is it?
A. The Cerro Grande; the one that runs at the mouth of the Rio Colorado.
Q. What is that mountain called—what range of mountains?
A. Just the mountain; it is called Cerro de la Lama at some portions, and at others it is called Cerro Coyotes.
Q. Is it the same part of the same range?
A. Yes.
Q. Is there any other mountain further east than that?
A. The mountains are very large and very long; they continue.
Q. Have you ever been on the other side of that mountain?
A. Yes.
Q. What valley is that on the east side of the mountain?
A. The Valley of Monero, as it is called.
Q. That is the range of mountains that divides the Monero Valley from the Taos Valley?
A. Yes.
Q. Do you know a place on the south side of the Cebolleta grant that is called the la linia divisora de San Cristoval?
A. No; I have not known such a thing.
Q. In the year 1846, who were occupying, if any, the valley of the San Cristoval?
A. There were many persons there.
Q. How far did the limits of their possessions extend north of the San Cristoval Creek?
A. I never knew.
Q. You never knew where they extended to?
A. No.
Q. Have you ever seen on the west side of the Rio del Norte el filo del peñasco del el Rio del Norte?
A. Yes.
32 Q. What is el filo del peñasco?
A. The Rio Grande is very deep there, and the bank is composed of the rock on the edge of the filo.
Q. Did you ever know of any of these persons whom you have mentioned—Carlos Santistevan, Julian Santistevan, Tomas Ortivis, Carlos Ortivis, Jose Manuel Garcia—occupying any portion of this property? If so, where did they occupy it?
A. I saw the Santistevans planting in the Canon del Garrapata, and this same Lagos Garcia, I saw him at Largo.
Q. Jose Lagos Manuel Garcia?
A. Yes.
Q. Is he the father of Jose Ygnacio Garcia?
A. Yes.
Q. Did you ever see the Ortivises occupying any part of the property?
A. No, sir.
Q. How were the Santistevans occupying it? What were they doing?
A. They had a farm, and they had some jacales. They were living there, and they had families there.

Q. Which year was that?

A. I can not state positively. I do not want to concede a mistake.

Q. How was it with reference to the time the American troops came in the year '46? Was it before or after that time?

A. After the year '47.

Q. Do you know how long they had been living there at those places when you came?

A. No, sir.

Q. How was Jose Manuel Lagos Garcia occupying the property?

A. When I come he had a little planting strip.

Q. Have any house?

A. Yes.

Q. Family?

A. Yes; I went there, but I did not reach the house.

Q. What year was that, with reference to the time you saw the Santistevans?

A. About at that time, or a little before I had been there.

Q. How far is the Rio Colorado, where you live, from the place where the Santistevans were when you saw them?

A. The distance is large.

Q. How far from the place where you saw Garcia from where you live?

A. A little above.

Q. State whether or not you frequently or seldom went down to this property.

A. Very few times.

Q. How did it happen you saw these people at the time that you went there?

A. Because I was there hunting for some animals.

33 Q. That is all.

Cross-examination by Mr. POPE:

Q. These three people you have mentioned, Carlos Santistevan, Julian Santistevan, and Jose Manuel Garcia, they were the only people that you saw on that land at the time you were there; that you knew, were they?

A. Yes, sir.

Q. How much land did Julian Santistevan occupy?

A. I do not know.

Q. He was farming a small tract, was he?

A. Yes. There was a planting strip.

Q. Carlos Santistevan, he was cultivating a small strip too, was he?

A. The planting portion of the farm was together.

Q. How many acres did they plant there?

A. I can not state.

Q. As much as five acres?

A. It is impossible to say. I do not know how much an acre is.

Q. How many varas were they planting?

A. It may be one hundred varas.

Q. Not more than that?

A. Yes; the bottom was small.

Q. Manuel Garcia, how many varas was he cultivating?

A. He also had a strip; I do not know how much; very little, also.

Q. Were the people of Rio Colorado pasturing to the top of the ridge?
A. Yes.
Q. Is that the first ridge north of the Lama River?
A. Yes.
Q. Was that the point to which you say they claimed?
A. Yes.
Q. To the top of this ridge?
A. Yes; to the place of the Lama, and they went around and come over from this other side.
Q. Did they allow all to come over on the other side?
A. The people who had stock on the Rio Colorado.
Q. Did they allow the people of Cebollas to come over?
A. No; the people of Rio Colorado.
Q. Did the people of Rio Colorado claim that ridge as their boundary all the way?
Mr. CATRON. We object.
The COURT. That is the same question you had a while ago; sustained.
Q. These people claimed to the top of that ridge?
A. To the place De la Lama.
Q. That is the same ridge which you have mentioned?
A. Yes.
34 Q. That is all.
Mr. CATRON. That is our case, except I may want to supply that proof of Mr. Elder.

JOSE GUADALUPE CORDOVA, a witness of lawful age, being produced, sworn, and examined on the part of the Government, testified, upon direct examination by Mr. Pope, as follows:

Q. What is your name, age, and residence?
A. My name is Jose Guadalupe Cordova; I live in San Cristoval.
Q. How long have you lived there?
A. In the year 1857 I moved to San Cristoval.
Q. Have you been living there ever since?
A. Yes.
Q. Was that a settlement when you went there?
A. Yes; it was settled.
Q. Do you know an acequia just a little north of the present settlement of San Cristoval?
A. Yes.
Q. How far is it from the plaza itself?
A. I do not know how far it is from the town; it is immediately adjoining one hill on the north; but, more or less, it is about a mile; it may be more than a mile.
Q. Are the people of San Cristoval planting any where around that settlement?
A. They do not plant around the town. The town is on this side of the stream, and a portion of the people live on the other side of the river.
Q. Do you know an acequia between the town of San Cristoval and the Cañada Garrapata?

A. I only know of the ditches from which they irrigate the possessions of San Cristoval.

Q. How far north are the possessions of San Cristoval?

A. It is said that they extend as far as the ridge of the Garrapata

Mr. CATRON. I ask to strike that out. The grant of San Cristoval is the best evidence.

The COURT. The question is as to the possessions at the time this grant was made; he may ask about the possessions at that time. This witness went into that country in '57.

Q. When you went there in '57 what possessions did the people of San Cristoval claim?

Mr. CATRON. We object as to what they claimed.

35 The COURT. Sustained.

Q. What possessions did the people of San Cristoval have?

A. They possessed that that they hold now.

Q. How far north did they extend?

A. We recognized it up to that place that we recognize it now.

Q. What place is that?

A. The ridge that starts from the river at a little mountain called Cerrito Blanco, along the ridge until it joins with the Rio del Norte where a little cerrito lies there.

Mr. CATRON. We move to strike that answer out.

The COURT. Proceed; take it subject to the objection.

Q. Where is that with reference to the Cañada Garrapata, the point you have mentioned?

A. What point do you mean?

Q. The ridge you have mentioned—how far is that from the Garrapata?

A. It is to the south, on this side of the ridge.

Q. Is it the first ridge to the south, or some other ridge?

A. No.

Q. How far is the Cañada Garrapata from this ridge you have mentioned?

A. It is the same ridge that starts from the river, and the bottom of the Garrapata lies in this direction and the ridge in this other direction.

Q. Is it the first ridge south of the Cañada Garrapata?

Mr. CATRON. We object, as it is leading.

The COURT. Ask it.

A. The Cañada Garrapata has another ridge on the north side.

Q. Is this the first ridge on the south side?

Mr. CATRON. We object, as it is leading.

The COURT. He may ask it.

A. Yes.

Q. How far west does the Cañada Garrapata run?

A. At the place where it empties into the Rio del Norte.

Q. How does this ridge run with reference to this Canon Garrapata as it goes to the Rio del Norte?

A. It falls towards the Canon Garrapata.

Q. How far is this ridge from the settlement of San Cristoval?

A. At the lower part at one side it is about one mile or two miles.

Q. North or south.

A. To the south.

36 Q. To the south of San Cristoval?
A. To the north.
Q. Do you know Antonio Jose Martines?
A. Yes.
Q. Where did he live when you knew him?
A. In Taos.
Q. Did he claim any interest there in the San Cristoval grant?
Mr. CATRON. We object, as it is leading, and in the second place it has no connection whatever.
The COURT. Note the objection.
A. Yes, sir.
Q. That is all.

Cross-examination by Mr. CATRON:

Q. You say you have lived in San Cristoval since '57?
A. Yes.
Q. There were some settlements there at San Cristoval when you went there?
A. Yes; it was all settled.
Q. Where were these settlements with regard to the San Cristoval stream?
A. It was all settled on both sides of the river as far as the hills.
Q. How far from the river did the settlements extend?
A. On this side towards the town about two or three hundred yards.
Q. North on the other side?
A. To the other acequia.
Q. How many yards was that from the river?
A. I do not know how many yards it is from the river, but more or less, 4 or 5 hundred yards in certain portions; at other portions it was less.
Q. Do you mean that there was an acequia on each side of the river?
A. Yes.
Q. Was there more than one acequia on each side of the river?
A. There was only one.
Q. All the lands which those people occupied and cultivated lay between the acequia and the river, did they?
A. Some were on this side of the river and some on the other side of the river.
Q. But lying between the two acequia on the river?
A. Yes.
Q. They did not cultivate or occupy any lands outside of the acequias, did they?
A. No; only the other portions was recognized as belonging to the place of San Cristoval.
Mr. CATRON. I ask to strike that out.
The COURT. It may be stricken out.
Q. How many people were living at San Cristoval when you first went there?
A. I do not know how many; there were many.
37 Q. Were there two hundred when you first went there?
A. No.
Q. Was there one hundred?

A. No.
Q. Fifty?
A. Perhaps about fifty.
Q. How many people live there now?
A. Now there are more than forty.
Q. Do you mean heads of families, or men, women, and children?
A. Heads of families.
Q. Were there as many heads of families in '57 as there are now?
A. No; there were more.
Q. More in '57 than there are now?
A. Yes.
Q. Did they occupy any more lands in '57 than they do now?
A. Yes.
Q. What lands did they occupy in '57 that they do not occupy now?
A. These same lands that are under the channels on the other side of the river; many of them are not planted now.
Q. The people, then, have abandoned some of their lands that they occupied in '57, have they?
A. Those that have them now have not abandoned them.
Q. They did not cultivate lands north of the acequia on the north side of the river, did they?
A. Yes; they cultivated some strips.
Q. On the north side of the acequia?
A. Yes.
Q. How did they irrigate them?
A. With water from the same ditch.
Q. How close are these lands to the acequia?
A. It is not far from the ditch, from the border of the acequia to the north.
Q. Did they lie right near the ditch?
A. Yes; some of them were lying right near the ditch.
Q. How far is the farthest part of any one of these lands on the north side of the ditch, or on the ditch; as much as 50 yards?
A. No; 25 yards. They are right by the ditch, some of them, and the farthest one below may be about a hundred varas from the ditch.
Q. Then there are none of these lands lying more than one hundred yards from the ditch?
A. No; they are right adjoining with the ditch. The last one below the planting lands there on the south is about a hundred varas and perhaps more.
Q. How large a tract is that one? How many varas are the'e in that tract of land?
A. I do not know.
38 Q. Is it 25 varas?
A. No; it is more.
Q. Fifty?
A. It is more.
Q. 75?
A. About 4 or 5 hundred yards, more or less.
Q. Which way do they lie; lengthwise with the ditch?
A. No; they lie opposite the ditch.

Q. Is that land lower than the ditch?
A. Yes.
Q. How far is that below the town?
A. The town is on this side.
Q. How far are these lands from the place San Cristoval?
A. I do not know.
Q. Is it a mile?
A. More or less; it may be a mile and it may be less.
Q. Is there any house on these lands?
A. No; there are no houses.
Q. Who occupied those lands?
A. My father did.
Q. When did he occupy them first?
A. They have been occupying them until now.
Q. When did you' father first occupy them?
A. Since the year '57, when he bought that place at San Cristov from the Martineses.
Q. You are interested in this investigation, are you now?
A. No.
Q. You are interested to have your lands fall outside of that gra are you not?
A. I do not know if they are out or not.
Q. You want them to be outside, don't you?
A. I do not know.
Q. Who has talked to you about your testimony in this matter?
A. Nobody.
Q. How did they know that you knew anything about it?
A. I do not know.
Q. Is this the first time that you have told anything about anythi that you knew?
A. Yes.
Q. You have not even spoken to a soul on earth about it?
A. I have not talked to anybody.
Q. No one has asked to give you your testimony here?
A. No.
Q. You came here voluntarily?
A. I did not come here voluntarily.
Q. On which side of the river do you live?
A. On the other side of the river of San Cristoval.
Q. Do you live on these lands which you claim?
A. Yes.
Q. When were these lands first occupied?
A. Which lands?
Q. These that you have bought from the Martineses. When were th first occupied?
A. I do not know when they were first occupied; my father boug them already when they were planted.
39 Q. And he bought them in the year '57?
A. Yes.
Q. How old were you then?
A. I do not know; I do not remember.

Q. Was there any house on them when your father bought them?
A. Nobody.
Q. How much land was actually broken up and cultivated when your father bought them at that place?
A. All the land that my father bought was cultivated.
Q. Have you not put in any new land since?
A. That land at Ojito, in San Cristoval.
Q. Have you not added any lands at the place where your father bought from Martines?
A. Yes; I bought other strips.
Q. How much have you added to it?
A. About two hundred yards.
Q. How much land did your father buy? Give a description of the land he bought.
A. My father bought five hundred yards.
Q. Five hundred yards in what direction—north or south, east or west?
A. From north to south and part east to west.
Q. How many yards was it from north to south?
A. I do not know.
Q. How many yards was it from east to west?
A. Five hundred.
Q. The river runs east and west there, don't it?
A. Yes.
Q. How many yards is it from north to south—that is, from the south side of that land to the north side of that land of the cultivated lands?
A. I do not know.
Q. Five hundred?
A. No.
Q. There is nobody besides yourself that has any land on the north side of that acequia, is there?
A. Yes; and there are others who have lands also on the north side of the acequia.
Q. Who are they?
A. David Alries.
Q. Who else?
A. Benedicto Martines also has lands.
Q. Who else?
A. Teofilo Martines. These are the ones that I can remember.
Q. How do they irrigate their lands?
A. In that way; we water from the same ditch.
Q. The same ditch don't run at the foot of the hill. It runs down in the valley, don't it?
A. Yes; it runs at the foot of the hill, but they take the little ditches from the ditch.
D. Do they run the water up hill?
40 A. No, they do not; but they take their ditches out this way until they can bring their water down.
Q. Those pieces of land are very small pieces, are they?
A. Yes; they are small.
Q. And right near the ditch?
A. Yes; they are from the ditch in that direction.

Q. They lie right at the mouth of the little arroyo or mountains that come down where you can take the water out of the ditch and run them down, do they not?

A. Yes.

Q. Do they live north of the ditch?

A. Yes, most of them; no, they live on this side of the acequia; David Alires lives on the other side.

Q. How long has David Alires lived there?

A. I think the same time I have lived there.

Q. Do you know where he got his land?

A. Yes; he bought it there from another man.

Q. Who did he buy from?

A. He bought from Francisco Quintana.

Q. These lands that you speak about lie in the bottom of the San Cristoval Valley, do they not?

A. Yes.

Q. Do any of them lie on the hillsides?

A. No; there is no ditch on the hill; a man is on the level.

Q. Nobody lives up there, do they?

A. No; nobody lives on the hillside.

Q. How far are the farthest lands on the north side of the river from the river of San Cristoval itself?

A. I do not know how far they extend north.

Q. That is all.

Redirect examination by Mr. POPE:

Q. You say you have talked to no one; do you know this man, Mr. Coleman?

A. He is the one I have talked to; that surveyor there; he called me.

Q. Did you ever talk to him about this case?

A. I have not talked at other places about this matter until now.

Q. Do the people of San Cristoval have any flocks?

Mr. CATRON: We object, because it makes do difference what they have in the way of flocks.

The COURT: Proceed.

A. They have not; they have goats.

41 Q. Where do they pasture with reference to the acequia?

Mr. CATRON. We object, as it is immaterial and irrelevant.

The COURT. He may ask it.

A. From the acequia to the woods.

Q. What direction?

A. To the north.

Q. Did anyone in the past ever show you an object which was said to be the north boundary of this San Cristoval tract?

Mr. CATRON. We object, as it is impertinent, irrelevant, and immaterial.

The COURT. He may ask it.

A. What object do you mean?

Q. I want you to tell what object.

A. Yes; some documents that my father had with regard to the interest he held.

Q. Has any one ever shown you a cross which had any reference to this property—with regard to the San Cristoval tract?

Mr. CATRON. We object to that.

The COURT. Proceed.

A. I have shown it to nobody; nobody shows it to me.

Q. In the year '65 what occurred as to Pasqual Martines and Santiago Martines?

A. They informed me of the boundary line that lies to the south of San Cristoval; that direction towards the Cerrito Blanco; up to the mountains; on the shady side of the Cerrito del Blanco; they told me that the tract instead of a monument mark had a curly cedar; a very long one; instead of a monument they marked that cedar with a cross.

Q. Was north or south of San Cristoval?

Mr. CATRON. We object, as he has said it was south.

The COURT. He may ask it.

A. On the north.

Q. Who was Pasqual Martines?

A. He was the brother of Antonio Jose Martines.

Q. Was that Antonio Jose Martines the son of Severino Martines?

A. Yes.

Q. Where was this cross with reference to that ridge you have mentioned?

A. At the curly cedar; they told me they marked a cedar.

Q. Did you see this cross?

A. Yes.

Q. Where was it with reference to this ridge?

42 Mr. CATRON. We object, as it is impertinent, irrelevant, and immaterial.

A. On the cedar; the cedar was marked with a cross.

Q. Where was the cedar?

A. At the Cerrito Blanco.

Q. Where was the Cerrito Blanco with reference to the Cañada Garrapata; how far was it from it?

A. The Garrapata starts right there from the little ridge where the cedar was.

Q. What direction does the Garraputa run?

A. To the west.

Q. Does the Cañada Garrapata go to the Rio Grande River, or not?

A. At the mountains.

Q. Do you know where the Cerrito Negra is?

A. Yes.

Q. How far is that from the Rio Grande?

Mr. CATRON. We object, as it is not cross-examination; entirely new matter.

The COURT. He may ask it.

A. It is right by the box of the river.

Q. How far is the Cañada Garrapata from it?

A. It is on the divide of the Cañada Garrapata; on this side.

Mr. CATRON. I ask to strike that out; he said that Pasqual Martines told him.

The COURT. The motion will be entered of record; we will dispose of it hereafter.

Q. That is all.

Cross-examination by Mr. CATRON:

Q. When was it you had this conversation with Pasqual Martines and Jose Martines?

A. I said that I had a conversation with Pasqual Martines.

Q. Why did you mention Antonio Jose Martines?

A. To announce him as the brother of Pasqual Martines.

Q. He is the same Martines that got up the Taos revolution, is he, at the time General Price went up there to put them down?

A. I do not know; I do not remember.

Q. He was the only priest by the name of Martines up there about Taos, was he?

A. He was the only one.

Q. You knew he had Governor Bent killed, didn't you?

A. I do not know; I do not know if he had him killed or not.

Q. When was this conversation had with Pasqual Martines and Santiago Martines?

A. In '65.

43 Q. Whereabouts?

A. In Taos.

Q. In the town of Fernandez?

A. Yes.

Q. They told you about this cross, did they?

A. Yes.

Q. You never heard of it before that time, did you?

A. I did not.

Q. Did they tell you they put the cross there?

A. That they and their brother.

Q. At what time did they say they put the cross there?

A. They did not say the time.

Q. How long before they spoke to you did they say they had put the cross there?

A. No; I do not know if they had placed the cross there.

Q. Did they go with you to the cross?

A. No.

Q. The town of Fernandez is how far from this land?

A. I do not know how many miles.

Q. It is about 25 miles, is it?

A. I do not know; I do not understand about miles.

Q. It is about ten leagues, is it?

A. I do not know; I do not know anything about miles or leagues.

Q. It is nearly a day's travel, is it?

A. No.

Q. It takes about five or six hours, don't it?

A. Less.

Q. Does it take five hours?

A. About 4 or 5.

Q. On horseback?

A. On horseback.

Q. How many miles do you travel on horseback an hour?

A. I do not know.

Q. That is all.

Mr. POPE. We tender in evidence the papers in reported number 76, the town of Rio Colorado, being original grant papers, official translation thereof, petition of claimants, sketch map, and surveyor-general's opinion. They are part of the files of this case, from the surveyor-general's office. (Marked "Defendant's Exhibits A1, A2, A3, A4, and A5.")

Mr. CATRON. We object to them because they are irrelevant and immaterial.

Mr. POPE. We also offer in evidence the papers in reported number 110 also from the surveyor-general's office, being original grant papers, official translation thereof, three sketch maps, opinion of surveyor-general, and petition of claimants. (Marked "Defendant's Exhibit B1, B2, B3, B4, B5, B6, B7.")

Mr. CATRON. We object to them as being irrelevant, improper, and immaterial, no foundation having been laid for them, and I move to strike them out.

Mr. POPE. These papers were filed in the surveyor-general's office in 1872, on March 11th. Do you admit their genuineness?

Mr. CATRON. I will admit they come from the surveyor-
44 general's office if you say so. I admit the signatures of Andres Archuleta and Miguel Montoya are genuine; but I won't admit that the signature of Juan Antonio Martines is genuine.

The COURT. We have not disposed of the question; they will go in subject to the objection.

I hereby certify that the above and foregoing thirty-two and a part pages contain a full, true, and correct transcript of all the eviden'e taken in the above-entitled cause. Santa Fe, New Mexico, September 22, 1896.

W. J. McPHERSON,
Official Stenographer C. P. L. C.

45 PLAINTIFF'S EXHIBIT A.

Sello cuarto: [SELLO.] Dos reales.

Años de mil ochocientos cuarenta y dos y mil ochocientos cuarenta y tres. Habilitado para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

Admr., AGUSTIN DURAN. Gober., M. ARMIJO.

Exmo. señor gobernador deste departamento de Nuevo Mexico, D. Manuel Armijo:

Cárlos Santistevan, por si, y á nombre de otros cinco compañeros, todos vecinos de la poblacion de los Dolores, del partido de Taos, ante V. E., en debida forma como mejor haya lugar en derecho, represento y digo: que hallándonos sin tierra de propiedad que laborcar para el sostenimiento de nuestras personas y pobres familias, y teniendo visto un terreno valdillo muy propio para su cultivo, bañable con cierta agua que le dicen de la Lama, muy suficiente para su riego en el punto que asi se denomina, y

hasta otro punto que le nombran La Sebolla, y los que están entre la poblacion del Rio Colorado y de San Cristoval, pertenecientes á dicha demarcacion de Los Dolores de Taos, pido y suplico á la bien conocida y acreditada liberalidad de V. E., el que á nombre de los altos poderes de nuestra republica mexicana se sirva hacernos donacion del enunciado terreno, pues es de muy proporcionadas amplitudes y agua para poderse cultivar y suficiente sustentacion de los postulantes y sus familias, y sin perjuicio de tercero, ni en rason de propiedad ó de pasteo, ni de cualquier otro modo, antes si será resultante á mucho beneficio y aumento de la poblacion y de la agricultura, y que á mas de suvenir á la necesidad de los postulantes será tambien fortificar aquel puesto ó frontera que guarda la poblacion referida del Rio Colorado, del que solo distará el mencionado punto cosa de una legua y de la poblacion de San Cristoval un algo mas. Por tanto á V. E. suplico encarecidamente tenga á bien acceder á esta nuestra solicitud. Juro y protesto, &c. Ciudad de Santa Fe, diciembre 31, de 1845. A la obediencia de V. E.

CARLOS SANTISTEVAN.

SANTA FE, *diciembre 31, de 1845.*

Al prefo. del disto., para qe. vea si el terreno que se solicita no tiene dueño; haga qe. el juez á qe. corresponde, dé las posesciones qe. el petente espone.

ARMIJO.

RIO ARRIBA, *Enero 3 de 1846.*

El juez de paz, á que corresponde, investigará si el terreno que los impetrantes solicitan es valdio, y no resultare de su donacion perjuicio de tercero, pues no habiendo esto procederá á merecenarlos con el
46 terreno amplio que cada cual pueda laborear, con la condicion de que deben cercar con una cerca formal, para evitar los daños, y que no estorben los caminos, pastos y abrevaderos, y con prevencion de que han de mantener armas suficientes para su resguardo.

D. LUCERO.

En esta tercera demarcacion de Dolores, del partido de Taos, á los veinte dias del mes de marzo de mil ochocientos cuarenta y seis, yo, el juez de paz por ministerio de ley C. Juan Lorenzo Martinez, en la misma demarcacion en cumplimto. de un decreto de enero 3 de mil ochocientos cuarenta y seis, decretado por el señor prefo. del segundo distrito del norte D. Diego Lucero, como á juez que me corresponde investigar si el terreno que se solicita de los cinco impetrantes es valdio y no teniendo ningun embaraso, pasé al terreno, el cual allándolo incultivo y llermo los tomé de la mano, y pasiandolos muy despacio y en todo dro. de tener autoridad competente los posecioné en nombre de Dios y de los altos poderes de nuestras sabias leyes mexicanas, que tienen poder para garantisar terrenos valdios, para que se destiere el osio y se aumente la agricultura, segun ellos solicitan para laboriar, por allarse sin tierra de propiedad; y á cuya virtud, al mismo instante que recivieron su agraciada donacion, dieron voces de alegria, diciendo que viva la inclita soberania de la nacion mexicana, que protejidos en tal manera; de cuyo jubilo

arancaron sacates, tiraron piedras, y siendo legitimos dueños del terreno que decian bañar con el agua de el rito de la Lama que á esperanzas de tal fuentecita pidieron la donacion; y por lo mismo se les señaló por limites por el norte con los limitrofes de posecion de el Rio Colorado; y por el sur hasta donde tope la linia divisora de San Christoval; y por el oriente la sierra y por el poniente el filo del peñasco de el Rio del Norte, dejando, desde onde no se puede bañar para el oriente, libres los pastos, caminos y los abrevaderos sin por meritos de posiadores queran ebitar pasteos, como tambien quedan obligados a sercar con una serca formal para no tener que reclamar daños, teniendo que mantener armas suficientes para su resguardo; y para que en todo tiempo conste esta donacion, la autorizé con las facultades que me son conferidas; con los testigos de mi assistencia à falta de escribano publico que no lo hay en este departamento, y va en el presente comun por no haver del sello que corresponde, obligándose los nuevos colonisados á la reposicion de el sellado cuando oportunamente lo hallen; que de todo doy fe.

J. Lorenzo Martinez.

Assa. Juan José Cordova.
Assa. José Concepcion Medina.

47 Nota.—Son los posecionados en sus propios nbres. y apellidos los que siguen en esta lista nominal que ellos, por la vuena tranquilidad y vecindad, se partan á proporcion de la tierra la que entregué sin medir por el dia tan pesimo y el mucho monte que obstaba el cordel; y son en esta Juan Cárlos Santistevan, José Manuel García, Julian Santistevan, Cárlos Ortivis, Tomás Ortivis.

Vale. [rúbrica.]
Ass'a. Juan José Cordova.
Ass'a. José Concepcion Medina.

Siendo de los posecionados en esta posecion que al calse se pone esta nota Tomás Ortivis, la transfiere á su hermano, Cárlos Ortivis, sus drs. de la posecion, y lo firmó por ante mi Loro. Martin, alcalde, y la firmó conmigo el dicho Tomás, hoy 7 de abril de 1850.

Ass'a. Rafael Sisneros. Loro. Martin, *Alcalde.*
Mateo Romero. X. Tomás Ortivis. X.

Siendo los posecionados en esta posecion que al calse se pone esta nota Cárlos Ortivis, la transfiere al C. José Gonzales sus dro's de la posecion, y lo firmó por ante dos testigos presentes la que transfiere sus dros., por la cantidad de tres vacas orras, una baca parida y una yunta de bueyes; la que firmó con testigos, hoy 29 de septiembre de 1850.

Tgo. José Miguel Pacheco. Cárlos Ortivis. X.
José Bitor Valdez. X.

(Endorsement:) File 141. Deposited Nov. 9, 1870, in surveyor-general's office by Jose Felipe Gonzales as one of the heirs and present claimants. David J. Miller, C. C. Formally filed Feb. 5, 1872, by Graham Blackmore, present claimants. Miller, C. C.

48 *Translation of foregoing Exhibit A.*

Seal fourth. [SEAL.] Two reales.

Years one thousand eight hundred and forty-two and one thousand eight hundred and forty-three.

Habilitated for the years one thousand eight hundred and forty-four and one thousand eight hundred and forty-five.

Administrator AGUSTIN DURAN. Governor MANUEL ARMIJO.

To his excellency Manuel Armijo, Governor of this Department of New Mexico:

I, Carlos Santistevan, for myself and in the name of five other associates, all residents of the town of Dolores, in the district of Taos, before your excellency in due legal form, represent and state that finding without any land with title in fee to cultivate for the support of ourselves and our needy families, and having found a vacant tract very suitable for cultivation, irrigable from certain water, said to be from the Lama, quite sufficient for its irrigation, at the place called by that name up to another place, the Cebolla, which places are between the settlements of the Rio Colorado and San Cristoval, pertaining to the said district of Dolores de Taos, I ask and pray, from the well known and distinguished liberality of your excellency, that, in the name of the high powers of our Mexican Republic, you be pleased to make us a grant of the said tract; for the same is of very convenient size, and has ample water to be cultivated, and to afford sufficient support for the petitioners and their families, and would not injure any third party with respect to property or pasturage, or in any other way, but would rather result in the great welfare and increase of population and of agriculture; and, besides relieving the necessity of the petitioners, it will also strengthen that locality or frontier which guards the said population of the Rio Colorado, from which the said tract is distant but about one league, and from the settlement of San Cristoval somewhat more.

Therefore I earnestly pray that your excellency be pleased to accede to this our petition. I declare and protest, etc.

City of Sante Fe, December 31, 1845. At the disposition of your excellency.

CARLOS SANTISTEVAN.

SANTE FE, *December 31, 1845.*

To the prefect of the district, that he ascertain whether the land applied for has an owner, and cause the corresponding justice to deliver the land referred to by the petitioner.

ARMIJO.

JUAN BAUTISTA VIGIL Y ALARID,
Secretary.

49 RIO ARRIBA, *January 3, 1846.*

The justice of the peace to whom it corresponds to do so will investigate whether the tract the petitioners apply for is vacant, and

whether any injury to a third party would result from the granting thereof; and, none resulting, he will proceed to grant them of the land an abundance of what each can cultivate, under the condition that they inclose the same with a regular fence, in order to prevent damages, and that they do not obstruct the roads, pastures, and watering places, and with notice that they shall keep arms sufficient for their defence.

D. LUCERO.

In this, the third precinct, Dolores, of the district of Taos, on the twentieth day of the month of March, one thousand eight hundred and forty-six, I, Juan Lorenzo Martines, justice of the peace, by authority of law, for the said precinct, in pursuance of a decree of January 3, eighteen hundred and forty-six, by his honor Diego Lucero, prefect of the second district of the north, issued to me as the proper justice, that I investigate whether the land applied for by the five petitioners is vacant, and I, meeting no impediment, proceeded to the tract and, finding the same uncultivated and unoccupied, took the petitioners by the hand, and leading them very slowly and in full legal form, in virtue of holding competent authority, I placed them in possession of the land they pray for for cultivation, they being without land in fee, doing so in the name of God and of the high authority of our wise Mexican laws, which are sufficient to grant the public domain, to the end that idleness be banished and agriculture be encouraged. Wherefore they, at the instant they received their liberal donation and were favored in this manner, shouted with joy, saying huzza for the renowned sovereignty of the Mexican nation. And in this joy they plucked up grass and cast stones, as being lawful proprietors of the land which they wished to irrigate with the water of the valley of the Lama, as relying upon that small water source they had applied for the donation; and I therefore designate to them for limits: On the north, the boundaries of the Rio Colorado grant; on the south, to where the dividing line of San Cristoval is reached; on the east, the mountain, and on the west, the edge of the bluff of the Rio del Norte, leaving the pastures, roads, and watering places free, eastwardly, from where they can not irrigate; they not to prevent pasturing in virtue of being the possessors; and they are also obligated to inclose with a regular fence, so that they may not have to claim damages, and shall keep arms sufficient for their protection.

And to the end that this grant may in all time subsist, I authenticate the same under the authority conferred upon me, with my attending witnesses, for the lack of a notary public, there being none in this department; and it is done on this common paper, there being none of the proper stamp, the new settlers binding themselves to supply the same of the proper stamp whenever they can opportunely procure it; to all of which I certify.

J. LORENZO MARTINES.

Attending: JUAN JOSÉ CORDOVA.
Attending: JOSÉ CONCEPCION MEDINA.

NOTE.—The persons placed in possession, with their full names, are those following in this list of names, made that they, for the sake of peace and good neighborhood, may in proportion to the tract divide among themselves the land I delivered them without measuring, owing

to the very inclement day and the much thicket which impeded the cord; and they are in this list: Juan Carlos Santistevan, José Manuel Garcia, Julian Santistevan, Carlos Ortivis, Tomas Ortivis.

[RUBRIC.]

Valid.
Attending: JUAN JOSÉ CORDOVA.
Attending: JOSÉ CONCEPCION MEDINA.

Tomas Ortivis being of those placed in possession in this grant, at the foot of which this note is appended, he transfers to his brother, Carlos Ortivis, all his rights in this grant; and he signed this before me, Lorenzo Martin, alcalde, and the said Tomas signed this with me this 7th April, 1850.

LOR'O MARTIN, *Alcalde.*
TOMAS ORTIVIS. X

Attending: RAFAEL SISNEROS.
Attending: MATEO ROMERO. X

Carlos Ortivis being of those placed in possession under this grant, at the foot of which this note is appended, he transfers to the citizen José Gonzales his rights in the grant; and he signed this before two witnesses present; and he transferred his rights for the price of two dry cows, one cow with a calf, and one yoke of oxen; which he signed with the witnesses this 29th of September, 1850.

CARLOS ORTIVIS. X

Witness: JOSÉ MIGUEL PACHECO.
Witness: JOSÉ BITOR VALDES. X

SANTA FE, NEW MEXICO, *February 5, 1872.*

The foregoing is a correct translation from the original in Spanish, to the best of my knowledge and belief.

SAM'L ELLISON, *Translator.*

Sworn to and subscribed before me this February 5, 1872.

T. RUSH SPENCER,
Surveyor-General.

51 SURVEYOR-GENERAL'S OFFICE,
TRANSLATOR'S DEPARTMENT,
Santa Fe, New Mexico, February 5, 1872.

The foregoing translation having been by me compared with the original in the Spanish language and found correct, the same is hereby adopted as the official translation.

DAV. J. MILLER, *Translator.*

52 PLAINTIFF'S EX. S.

Being petition of claimants of the Cebolla grant to the surveyor-general of N. M.

To Honorable T. RUSH SPENCER,
Surveyor-General of the Territory of New Mexico:

John T. Graham, a resident of the county of Colfax and Territory of New Mexico, and William Blackmore, a resident of the county of Costilla and Territory of Colorado, represent that they are the owners in fee

of a certain tract of land lying and being situate in the county of Taos and Territory of New Mexico known as "La Lama" or the "Cebolla" grant, bounded or described as follows: On the north by the limits of the Rio Colorado grant; on the south by the dividing lin/ of the San Cristobal; on the eas' by the mountains, and on the west by the rocky bluffs of the Rio Del Norte, all of which boundaries are well known landmarks. Said John T. Graham and William Blackmore claim a perfect title to said land by virtue of a grant made on the 31st day of December, A. D. 1845, by Manuel Armijo, the then governor of New Mexico, and perfecte' according to law by possession given by Lorenzo Martinez, justice of the peace, on the 20th day of the month of May in the year A. D. 1846. Said grant was made according to the laws, usages, and customs of the Republic of Mexico to Juan Carlos Santistevan, Jose Manuel Garcia, Julian Santistevan, Carlos Ortibis, and Tomas Ortibis, as will appear by reference to said laws and usages at that time in force, as also by reference to the petition, grant, and act of possession herewith filed and marked A and made a part of this petition.

The said John T. Graham and William Blackmore further state that they can not show the quantity of land claimed by them only so far as set forth by the foregoing description and bounds; nor can they furnish a plat of the survey of the same, as no survey has ever been made. Your petitioners further state that the said above-mentioned grantees, after having been put in lawful possession of said grant, and those holding under them, conformed to all the laws and regulations in regard to the same as required at that time, and have so continued to hold possession of the same up to the present time.

Your petitioners further show that on the 7th day of April, A. D. 1850, said Tomas Ortibis sold and conveyed his interest in said grant to said Carlos Ortibis. Said Carlos Ortibis, on the 29th day of September, A. D. 1850, and a'so by deed dated April 26th, 1853, sold and transferred and conveyed all of his interest in said grant to one Jose Gonzales, since deceased. Said Julian Santistevan, by deed dated February 3rd, 1852, sold, transferred, and conveyed all of his interest in said grant to said Jose Gonzales, since deceased. Said Juan Carlos Santistevan, by deed dated March 29th, 1854, sold, transferred, and conveyed all his interest in said grant to said Jose Gonzales. Said Jose Manuel Garcia, under and by the name of Manuel Lagos Garcia, by which said name he was sometimes called, by deed dated February 23rd, A. D. 1853, sold, transferred, and conveyed all his interest in said grant to said Jose Gonzales, which said transfers vested in said Jose Gonzales, since deceased, the entire property in fee simple in said grant of land.

Your petitioners further state that after the p'rchase of said
53 grant of land as aforesaid, and whi'e he was the owner and possessor thereof, the said Jose Gonzales departed this life, leaving his widow, Maria Gregoria Medina, Jose Felipe Gonzales, Savino Gonzales, Francisco Gonzales, Francisca Gonzales, now married to Francisco Berele, Guadalupe Gonzales, now married to Agapita Duran, and Dolores Gonzales, now married to Felipe Baca, leaving them as his sole surviving heirs and owners by inheritance from him of the said grant of land.

Your petitioners further state that the said grantee, Juan Carlos Santistevan by quitclaim deed dated October 8th, 1871, sold, transferred, and conveyed to said Felipe Gonzales all of the right, title, and interest which

he had or might have had at the time in said grant of land, and Maria Marta Romero, widow of said Jose Manuel Garcia, by like quitclaim deed dated October 4th, A. D. 1871, sold, transferred, and conveyed all her right, title, and interest in said grant of land to said Felipe Gonzales. Maria Gregoria Medina, widow of said Jose Gonzales, by deeds dated November 28th, 1868, and October 7th, 1871, sold, transferred, and conveyed to said Felipe Gonzales all of her said interest and the interest of her daughter Dolores, which she had previously acquired by purchase in and to said grant of land. Said Francisca Gonzales, together with her husband, by deeds dated August 2nd, 1871, and October 7th, 1871, sold, transferred, and conveyed all her said interest in said grant of land to sa'd Felipe Gonzales. Said Guadalupe Gonzales, together with her husband, by deeds dated June 13th, 1863, and December 1st, 1871, sold, transferred, and conveyed al' her said interest in said grant of land to said Felipe Gonzales. Said Francisco Gonzales, by deeds dated October 7th, 1871, and December 22nd, 1866, sold, transferred, and conveyed all his interest, &c., in and to said grant of land to one Dionicia Gonzales. Said Savino Gonzales, by deeds Jan'y 17th, 1867, and October 7th, 1871, sold, transferred, and conveyed all of his interest, &c., in and to 'aid grant of land to said Dionicia Gonzales. Said Felipe Gonzales and said Dionicia Gonzales, by deeds dated Jabuary, 24th, 1872, sold, transferred, and conveyed all of their right, title, claim, and interest, whether by purchase, inheritance, or otherwise, in and to said grant of land to your petitioner John T. Graham, and your petitioner John T. Graham, by like deed dated January 25th, 1872, sold, transferred, and conveyed the one undivided one-half of said grant of land to your other petitioner William Blackmore, by which said deeds of conveyance the entire grant of land aforesaid vested in your petitioners in fee simple, all of which will more fully appear by reference to certified copies of said deeds of conveyance herewith filed and marked B, C 1 and 2, D, E, F, G, H, I, J No. 1 and 2, K No. 1 and 2, L No. 1 and 2, M No. 1 and 2, N No. 1 and 2, O, respectively.

Your petitioners further state that possession of the said grant of land was delivered to your petitioners under said deeds of conveyance, and that they are now in full and complete possession thereof. They therefore ask that the said grant of land be speedily acknowledged in and confirmed to them.

T. B. CATRON,
Attorney for Claimants.

(Endorsed:) File 141. 1. Petition of claimants to surveyor-general. This document is duly recorded on pages 342, 343, 344, and 345, in vol. 3 of land claim records in the office of the surveyor-general. Pl. E. "C" reporter.

54 PLAINTIFFS' EXHIBIT C.

Extract from transcript of private land claim, reported as No. 61, in New Mexico, being grant to Juan Carlos Santistevan et al., December 31, 1845, for the Cebolla tract of land, in Taos County, New Mexico, decided by the surveyor-general March 23, 1872.

* * * * * * *

Juan Carlos Santistevan et al. Lama or Cebolla tract.

AGUSTIN DURAN, being by the surveyor-general sworn to depose in this case, on his oath declares:

Question. (By the surveyor-general.) What is your name, age, and residence?

Answer. My name is Agustin Duran; my age is eighty years, the 14th of August next; and my residence here, at Santa Fe.

Q. In the years 1844 and 1845, what office, if any, did you hold in the department of New Mexico?

A. In the years 1844 and 1845 I was administrator of customs in the department of New Mexico, and had control or management of stamped paper branch of the Government here, and had authority to habilitate stamped payer by extending it for subsequent years.

Q. Please examine document marked A in this case, bearing a signature purporting to be yours, and state whether it is genuine, and whether that document was habilitated for the years 1844 and 1845?

A. The signature is mine and is genuine, and that on the left of it is Governor Manuel Armijo's genuine signature. The paper was thus habilitated because there was none for the term 1844 and 1845 on hand and to render it legal for that term under the law.

Q. Who were the governor and secretary of the department of New Mexico in the year 1845, and are the signatures borne by the granting decree in this case, in your opinion, genuine?

A. Manuel Armijo was governor and Juan Bautista Vigil y Alarid secretary during the whole of that year, and their signatures to said document are genuine.

AGUSTIN DURAN.

Sworn to and subscribed before me this February 7, 1872.

T. RUSH SPENCER,
Surveyor-General.

55 JUAN QUINTANA, being by the surveyor-general duly sworn, on his oath declares:

Question. What is your name, age, and present residence, and also where did you reside in the year 1846?

Answer. My name is Juan Quintana; my age is 45 years; my present residence is here in Santa Fe, and in the year 1846 I resided at the Arroyo Hondo, in the county of Taos.

Q. Did you know Juan Lorenzo Martinez in 1846; and if so, what office did he then hold?

A. I knew him; and he in that year was alcalde for the precinct of Arroyo Secoin, the county of Taos, otherwise called the Arroyo Hondo, there being but one alcalde for that locality.

Q. Did you know at that time Juan Carlos Santistevan, José Manuel Garcia, Julian Santistevan, Carlos Ortivis, and Tomas Ortivis? And, if so, if any of them were commonly known by other names, state what they were.

A. I knew them all. Juan Carlos Santistevan was generally called Carlos Santistevan, and José Manuel Garcia was commonly called Manuel Lagos.

Q. Did or did not Juan Lorenzo Martinez, to your knowledge, in the year 1846, as alcalde, place the parties mentioned in the preceding ques-

tion in possession of a grant of land in Taos County? And if so, describe the land if you can do so.

A. In 1846 Señor Martinez so gave possession, which I witnessed, being present on the ground; and the boundaries of the land are: On the north, adjoining the grant of the Rio Colorado; on the east, the mountain; on the south the San Cristoval River, and on the west the Rio Grande Bluffs.

Q. State, if you know, who have had possession of the land since the year 1846.

A. The grantees possessed it until they sold it to José Gonzales, and when he died it passed to his heirs, who have held and occupied it until very recently.

JUAN (his x mark) QUINTANA.

Sworn to and subscribed before me this February 7, 1872.

T. RUSH SPENCER,
Surveyor-General.

56 JOSÉ ANTONIO LAFORET, being by the surveyor-general duly sworn, on his oath declares:

Question. What is your name, age, and residence?

Answer. My name is José Antonio Laforet; my age is forty-five years, and I reside at Rio Colorado, in the county of Taos, where I have resided since the year 1842.

Q. Do you know the signature of Juan Lorenzo Martinez? If so, please examine the signature on document A, purporting to be his, and say whether, in your opinion, the signature is genuine.

A. I know the signature of said Martinez, and that shown me on document A is genuine.

JOSÉ ANTONIO LAFORET.

Sworn to and subscribed before me this February 7, 1872.

T. RUSH SPENCER,
Surveyor-General.

57 PLAINTIFF'S EX. B.

Being decision of surveyor-general of N. M. in reference to the Cebolla grant.

Juan Carlos Santistevan et al.—The Cebolla tract.

This claim for a tract of land situated in the present county of Taos, in this Territory, and known as the Cebolla tract, depos'ted November 9, 1870, was formally filed in this office February 5, 1872, by Thomas B. Catron, as attorney for John T. Graham and William Blackmore, the present claimants, and at the request of the parties that the case be acted upon as soon as practicable, the same was set for trial for the 7th of the same month.

The title papers, emanating from the Mexican Government in New Mexico, filed and acted upon in the case, are the originals, and from them it appears that—

1. Juan Carlos Santistevan, for himself and five other unnamed individuals, on December 31, 1845, petitioned Governor Manuel Armijo for a tract of land at the Lama, between the settlements of Rio Colorado and San Cristobal.

2. Governor Armijo, on the same day, referred the petition to the prefect of the district, with instructions to ascertain whether the land was vacant, and, if so, to place the petitioners in possession thereof.

3. The prefect, on the 3rd day of January, 1846, directed the proper alcalde to investigate whether the land was vacant and ascertain wh'ther any injury would result from making the grant, and, if not, to place the parties in possession of fully as much land as they could cultivate, notifying them, as conditions subsequent, that they should fence in the same, should not obstruct the highways, watering places, or pasture grounds, and should keep themselves provided with arms for defence.

4. The alcalde, on the 20th of March following, in virtue and pursuance of the prefect's authority and direction, after the investigation required and upon ascertaining that no impediment to his doing so prevented, proceeded to the land and, finding the same uncultivated and unoccupied, formally placed the parties, to wit, Juan Carlos Santistevan, Jose Manuel Garcia, Julian Santisvean, Carlos Ortibis, and Tomas Ortivis, in possession of the land by them applied for for cultivation, stating and prescribing as boundaries, as follows: On the north, the boundaries of the Rio Colorado grant; on the south, the line of San Cristobal; on the east, the mountain, and on the west, the edge of the bluff of the Del Norte River.

In the investigation of the genuineness and validity of this claim under the laws, usages, and customs of Mexico, three witnesses were sworn and examined by the surveyor-general. Of these, the first, Augustin Duran, testified to the validity of the stamped paper, the muniments filed bearing the original petition, the decrees, and the possessory act constituting the claim for ; that he had himself, as revenue officer of the Mexican Government, legally habilitated the same for such use. The witness Juan Quintana testified that Juan Lorenzo Martinez, the officer who placed the grantees in juridical possession of the land,
58 was, in the year 1846, the officiating alcalde at Arroyo Seco, in the locality of this grant, and in that year did place said parties in possession of the land, and also that they remained in possession thereof until they sold to Jose Gonzales, who and whose heirs continued to hold and occupy the same until recently. And the witness Jose Antonio Loforet testified to the genuineness of the signature of said Alcalde Martinez to said act of possession.

The present claimants of this land have filed with and as part of this claim sundry deeds of conveyance claimed to constitute a perfect chain of title from the original grantees to themselves, and have requested an approval of the grant to them as the legal representatives of the grantees. The deraignment as to some of the mesne conveyances is not shown to the satisfaction of the surveyor-general, however, to be perfect in all respects, and he has therefore deemed prudent to act upon the claim only with respect to its legal sufficiency as a grant of the land in question to the five individuals mentioned in the original title papers.

The decree of concession of Governor Armijo, notwithstanding its apparent vagueness in language as a grant, is nevertheless considered intelligible in that character and sufficient to the end and purpose manifestly intended, and all the constituent papers seem correct in form and complete. The sole question then for determination is as to the legal

competency of the governor of the Mexican Territory of New Mexico to make the grant.

The Mexican Congress, on the 18th of August, 1824, enacted a law known as the colinization law, providing that "the Government, conformably to the principles established in this law, shal' proceed to the colonization of the Territories of the Republic," and the Government has required to take the steps necessary for carrying into effect said enactment, and accordingly November 21, 1828, prescribed and established regulations for the required purposes. In these it is declared that "the governors of the Territories are authorized, in compliance with the law of the general Congress of August 18, 1824, and under the conditions hereafter specified, to grant the vacant lands in their respective Territories to such empresarios, families, or single persons, whether Mexicans or foreigners, who may ask for them for the purpose of cultivating or inhabiting them. The law and regulations here quoted from would seem to determine the question of the legal competency of Governor Armijo in the premises of this concession, and besides the Supreme Court of the United States have held in analogous cases that the governors of the Mexican Territories were competent to make grants of the national domain within their jurisdictions. See cases of the United States against Ritchc, and Fremont against the United States, in 21 Curtis's Supreme Court Reports.

The land is shown by the testimony to have been in the continuous possession and occupation of the grantees and their heirs and legal representatives from the date of the grant until the present day, and there has been made known to this office no adverse claim thereto, nor any objection to the approval and confirmation of this claim.

In view and consideration of the premises, the claim in this case is deemed and held to be a good and valid one as a grant to the individuals and for the land hereinbefore named and described, made in accordance with the laws, usages, and customs of the Mexican Republic, and
58½ under the treaty of Guadalupe Hidalgo with Mexico and the laws of the United States must be recognized and confirmed, and the same is hereby approved and recommended for confirmation to said five original grantees and their heirs and legal representatives, and a transcript of all the papers in the case is herewith transmitted for the final action of the Congress of the United States.

T. Rush Spencer,
Surveyor-General.

Surveyor-General's Office,
Santa Fe, New Mexico, March 23, 1872.

(Endorsed:) File 141. No. 61. Juan Carlos Santistevan and others. Surveyor-General's decision. This document is duly recorded on pages 394, 395, 396, & 397, in vol. 3, of land claim records in the office of the surveyor-general. Pl. Ex. "B." Reporter.

59 Defendant's Exhibit A1.

To the honorable U. S. Surveyor-General for New Mexico.

Sir: The undersigned, settlers and residents of the town of San Antonio

del Rio Colorado, in accordance with your order, have the honor of giving the following facts in connection with this grant:

In the year 1842, in fulfillment of a petition of the settlers, the prefecture of the Taos district donated to the people the grant referred to in the original document having the following boundaries, viz:

To the north the "Ojito de la Pinabeta," a source to a little creek, surrounded by pine trees, and the Serro Guadalupe, a distance of seven (7) miles; to the south the "Cuesta del Rio Colorado," the highest point of an acclivity known by that name, a distance of six (6) miles; to the east the "Sierra," a streak of mountains called by that name, a distance of one (1) mile; to the west the point of the in the cañon where the Rio Colorado joins the Serro Guadalupe, a distance of seven miles.

From that time up to the present time the undersigned have been by their predecessors and are now personally in possession of the land, which has never been surveyed by Government.

The accompanying original document are the proofs which the petitioners have in order to have their grant registered, for which registration they humbly pray that it may be fulfilled at the most speedy time.

We are, hon. sir, yours obedient servants,

	Tomas Archuleta y Samora.	Pedro Sisneres.
	Pedro Ignacio Fresquez.	Jose Canreli Montoya.
	Jose Manuel Fresques.	Anto. Laforet.
	Juan Julian Vigil.	Francisco Sisnerez.
	Wilson C. Hess.	Juan Pedro Trujillo.
60	Juan Montoya.	Jose Manuel Sisnerez.
	Pedro Ignacio Sisnerez.	Anto. Jesus Vigil.
	San Juan Duran.	Felipe Vigil.
	Juan de Jesus Montoya.	Juan Nepomoceno Mondragon.
	Miguel Anto. Gonzales.	Pedro Duran.
	Tomas Archuleta.	Juan Bautista Valdez.
	Raphael Lucas Sisnerez.	Juan Martin.
	Narciso Montoya.	Juan Andres Chavez.
	Juan de Jesus Bailon.	Jose Anto. Medina.
	Jose Anto. Rael.	Ma. Rosalia Baleria.
	Pedro Anto. Sisnerez.	Franzo. Archuleta.
	Maria Barbara Sanchez.	Diego Anto. Gonzales.
	Jose Leon Sisnerez.	Maria Pelegrina Otega.
	Pedro Ignacio Martinez.	Jose Franco. Martinez.
	Bartolo Salazar.	Jose Incar. Sandoval.
	Premisito Sisnerez.	Jesus Ma. Armenta.
	Teodoro Cruz.	Juan Bautista Martin.
	Juan Bautista Sierra.	Miguel Ortiz.
	Noscola Ortega.	Anto. Elias Velasquez.
	Diego Vigil.	Jose Dolores Gonzales.
	Gumisinda Garcia.	Juan Gonzales.
	Felipe Cordova.	Eulogio Vigil.
	Aloma Vasquez.	Santiago Velasquez.
	Florentino Garcia.	Anto. Domingo Cordova.
	J. M. Lesser.	Ma. Josepha Bielpan.
	Mathias Ortega.	Anto. Domingo Garcia.

By J. M. LESSER,
Attorney for the Foregoing.

I respectfully refer to the claim of Juan Carlos Santistevan et al. on file in your office in connection with the southern boundary of this claim of the town of San Antonio.

J. M. LESSER, *Attorney.*

(Endorsement:) File 153. Petition of claimants to surveyor-general. This document is duly recorded on pages 185, 186, and 187, vol. 4 of land claims records in office of surveyor-general.

61 DEFENDANT'S EXHIBIT A2.

Sor. Prefo del 1er. disto. de este departamento del Nuevo Mexico.

El C. Rafael Archuleta vecino y residente de la jurisdiccion Taos, á nombre de los suscritos en sustancia que acompaño, me presento ante V. S. con el debido respecto y sumision que debo, digo, Señr., que hallándonos escasos de tierras para sostener nuestras familias, hemos creido que los mas valdios se diese á los que se interesen cultivarlos para aumento de la agricultura; y con nuestras sabias leyes facultan al gobierno y á la prefa. para que los terenos valdios se den para aumento de la agricultura, y creyendo los qe. solicitamos el tereno en el punto del Rio Colorado es mui ameno para lo que lo solicitamos y sin perjuicio de tercero, pedimos á Vs., como mas inmediato, se nos conceda la peticion que solicitamos, dándosenos con amplitud el sitio con sus ejidos correspondientes, comprometiéndonos á no abandonar el tereno que solicitamos á menos de que no sea por una imbacion de los enemigos y que no seamos auxiliados; por todo lo cual pedimos y suplicamos se nos conceda nuestra solicitud que en hacerlo asi recibirémos gracia y merced, protestando y jurando no ser esta nuestra peticion de malicia en lo necesario, &c., y va esta nuestra presentacion en papel comun por no haber del que corresponde en este districto ni en Santa Fe, ni en ningun punto, obligándonos á pagar el tiple.

Rio Arriba Eno. 8, de 1842.

RAFAEL ARCHULETA.
ANTO. ELIAS ARMENTA.
MIGUEL MONTOYA.

RIO ARRIBA, *Eno. 8, de 1842.*

Como una de las atribuciones que corresponde á esta prefa. de mi cargo es la de mercenar y de determinar de los valdios que existen an la comprencion del distrito de mi cargo y teniendo en consideracion el miserable estado de los solicitantes y el fomento de la agricultura tan recomendada por las leyes, he (roto) en concederles como les concedo, á nombre de la Republica Mejicana, el tereno que tienen registrado para que se les de en posesion en los terminos que la ley señala, con tal que
62 no resulte en perjuicio de tercero como lo acreditó el informe del juez de paz en la instancia que presentaron en aquel jusgado los solicitantes, para lo cual y la posecion correspondiente pasarán con este decreto al juez de paz á donde corresponde el terreno que solicitan los presentantes, cuyo juez praticará las diligencias á Vs. correspondientes para constancia en todo tiempo y que sirba de titulo á los agraciados el Señor Don Juan Andres Archuleta, prefecto del primer districto de este departamento; asi lo decretó con migo el scri. de la prefa. de que certifico.

ARCHULETA.

POSECION.

En San Geronimo de Taos, en dies y nuebe dias del mes de enero de este presente año de mil ochociemtos cuarenta y dos, yo, el juez de pas de la primera y segunda demarcacion, por ministerio de ley de dhas. dos demarcaciones, Don Juan Anto. Martinez cumplimiento de lo mandado por el señor prefecto del primer districto, Don Juan Andres Arehuleta, como consta en el superior decreto fecha ocho del actual, á que sea tierra por posecion en Rio Colorado, y que se pratiquen las diligencias correspondientes y habiendo pasado al terreno, yo, dho. juez de paz, en compañia de dos testigos de asa., que lo fueron los C. C. Anto. Lovato y José Anto. Gutierres, hallándose el mencionado terreno libre y baldio, estando presentes treinta y sinco familias, les hise entender y saber la peticion que hicieron, y el superior decretó y les espresó, que para la dha. posecion habian de guardar y cumplir en toda forma todas las condiciones siguhentes: que el paraje prefijado ha de ser *h*asistido y nunca desamparado, y que los pastos y abrebaderos han de ser comunes para todos los habitantes, y que el terreno ha de ser comun, no solo á ellos sino para todos los que quepan en el mencionado terreno en lo susesivo; y que les agracia dho. terreno para laboriar con amplitud y pastear animales de todas clases; por lo consiguente, que respecto á lo arriesgado y frontieriso del paraje deberán mantenerse equipados de armas de fuego o flechas de lo que se les pasara muestra tanto en su entrada como en cualesquier
63 tiempo que lo hallara por conveniente el juez o jueces que las mandaran; bien entendidos que pasados dos años de la posecion, todas las armas que tubieren y puedan, deberán ser presisamente de fuego, pero bien abitadas para defensa de su posecion y nuestra amada patria, bajo la pena que el que asi no lo berificare el der. de dha. posecion igualmente que no tienen dor.; los colonizados en bender las tierras agraciadas hasta pasados cuatro años de cultivadas; que la plaza que fabriquen ha de ser en los terminos de bien amuralladas y fortificadas y en inter deberan situarse en dho. paraje y hacer sus jacales para que se alberguen sus familias; y habiendo oido y héchose cargo todos y cada uno de por si de las sitas ya referidas en su conformidad /respondieron de mancomun quedar impuestos y entendidos de lo que se les advierte; y en consequencia de lo cual los tomé por las manos y dije en claras y inteligibles voces en nombre del soberano congreso constituyente de la union y sin perjuicio de su nacional haber ni el de tercero, los pasié por dhas. tierras; arrancaron sacates, tiraron piedras y dieron voces de alegria, diciendo viva la soberania de la inclita nacion mexicana, y la autoridad constituida tomando posecion de dho. terreno quieta y pacificamente sin contradicion alguna, señalandoles los linderos y limites por el norte el Ojito de los Pinabetes y la punta del cerro de Gualupe, por el sur la cuesta o ceja del Rio Colorado, por el oriente la sierra, y por el poniente el cañoncito en donde junta el dho. cerro de Gualupe con el Rio Colorado, en cuyo ambito se contiene el terreno mercenado y midiéndoles las tierras de labor tocó á cada uno de los colonizados el numero de varas de tierra que constan y la lista de pobladores que son á línea recta una y otra banda del rio, quedando un sobrante al lado de arriba en el rito del cabresta sin repartir, y la cienega que está al frente de la plaza bien queda á beneficio de todos en comun; esto es lo que no se puede sembrar; y para abajo tam-

bien quedó otro sobrante sin repartir hasta la puerta del cañoncito; y igualmente queda dentro de la posecion la isla que está
64 en medio de los dos rios que es endonde se colonisó el C. Anto. Elias Armenta y su hijo politico Franco. Laforce, á quienes se les señalaron mas numero de varas de tierra que á los que les tocaron en linea recta, por ser la dha. isla de corta amplitud, y ser este Señor Armenta de los que se gozan el dro. de posecion en la peticion que hicieron, como tambien se gozan en la premacia los señores Rafael Archuleta y Migl. Montoya, queines hicieron todo el esfuerso posible para conseguir la posecion, advirtiéndoles á los colonizados que los pastos y abrebaderos son comunes como queda dho., y caminos de entradas y salidas á las plazas deben quedar amplios y libres por donde combenga; igualmente que las dhas. plazas deben tener de choreras por el rumbo del norte hasta la cejita que está cerca del monte, por el sur hasta el rillito que está al pie de la sejita endonde hechan agua para la plaza, por el oriente cuarenta varas para choreras y servidumbres y por el poniente otras cuarenta varas para el mismo objecto dho.; y para que en todo tiempo conste y les sirva de titulo y credencial á los colonizados y puedan colonizarse en lo susesivo, firmé el presente documento de posecion con los dos testigos de mi asa., con quienes autuo por reseptoria, á notoria falta de escribano publico, que no lo hay, en los señalados en los terminos del dro.: y en el presente papel comun por no haber del sellado, el que agregarán los interesados cuando lo haya; fecho ut supra doy fee.

JUAN ANTO. MARTIN [RUBRICA]

De asa. JUAN ANTO LOVATO [RUBRICA]
De asa. JOSE ANSC. GUTIERRES [RUBRICA]

NOTA.—Los C. C. que se colonizan en el sobrante de arriba en el Rito del Cabresto, de las cien varas de José Anto. Archuleta para arriba, quedan sujetos al plan del rio; de una y otra banda del rio; sin dro. á laboriar arriba en el llano de Gualupe; para que con el dro. de exidas igualmente en el citadollano como todos los pobladores y para la
65 debida constancia firmé y legalisé la presente nota con los testigos de mi asistencia en la fecha referida; que de todo doy fee.

JUAN ANTO. MARTIN [RUBRICA]

De asa. JUAN ANTO. LOVATO [RUBRICA]
De asa. JUAN ANTO. GUTIERRES [RUBRICA]

Sigue á continuacion la lista de los pobladores de San Anto. del Rio Colorado, con el numero de varas que cada colono se goza, a saber:

Nombres.	Número de varas.
C. José Anto. Archuleta	100 vras
C. Nicolás Martin	100 vras
C. Pablo Martin	100 vras
C. Anto. José Martin	100 vras
C. Seberino Martin	100 vras
C. Rafael Archuleta	100 vras
C. Manuel Sanches	100 vras
C. Rafael Martin decidió su deho. en Felipe Archuleta	100 vras
C. Rafael Candelario	100 vras
C. Santiago Gomes	100 vras
C. Franco Gomes	100 vras
C. Anto. Domingo Garcia	100 vras

Nombres.	Número de varas.
C. Manuel Anto. Garcia	100 vras
C. Míguel Sanches	100 vras
C. José Anto. Sanches	100 vras
C. Miguel Gomes	100 vras
C. Franco. Estéban Cordova	125 vras

Aquí queda la cienega y el sobrante que se puede lavoriar

C. Juan Christoval Madrid	100 vras
C. Bictor Sanches	100 vras
C. Manuel Gonzales	100 vras
C. Carlos Hortuvis	100 vras
C. Miguel Montolla	100 vras
C. Jose Anto. Gutierres, traspasó todo su derecho en el C. Antonio Belasques	100 vras
C. Anto. Segura	100 vras
C. Bentura Martin	100 vras
C. Estéban Truxio	100 vras
C. José Gabriel Truxio	100 vras
C. Juan Pedro Truxio	100 vras
C. Rafael Arifel	100 vras
C. Franco Montes	100 vras
C. José Hilario Montes	100 vras
C. Jes. Maria Montes	100 vras

66 DEFENDANT'S EXHIBIT A3.

To the prefect of the first district of New Mexico:

The citizen Rafael Archuleta, resident of the jurisdiction of Taos, in the names of those subscribed in the accompanying petition, present myself before your honor, with the due respect and submission that I owe, and say, sir, that finding ourselves in want of land for the support of our families, and believing that the public lands should be given to those who take an interest in developing them for the promotion of agriculture, and as our wise laws empower the governor and the prefecture to give the public lands for the increase of agriculture, and the petitioners believing that the land which we solicit at El Rio, Colorado, is very fertile for the purpose which we solicit it, and without injury to any third party, we ask of your honor, as the nearest, to grant our solicitation, giving us with amplitude the tract with its corresponding commons, obligating ourselves not to abandon the land that we ask for, unless it be on account of an invasion of the enemies and we should not receive aid. Wherefore we ask and request that our petition be granted, and by doing so we shall receive grace and mercy, protesting and swearing that our petition is not made in dissimulation, but what is necessary, &c. And this petition is made on common paper because there is none of the proper kind in this district, nor in Santa Fe, nor in any other place, binding ourselves to pay treble.

Rio Arriba, January 8, 1842.

RAFAEL ARCHULETA.
ANTONIO ELIAS HARMENTA.
MIGUEL MONTOYA.

RIO ARRIBA, *January 8, 1842.*

As one of the attributes pertaining to the prefecture under my charge is to donate and determine as to the public lands lying within the limits of the district under my charge, and taking into consideration the

miserable condition of the inhabitants and the promotion of agriculture, so much recommended by the laws, I have determined to, and do
67 grant them in the name of the Mexican Republic the land which they have registered, so that the possession of the same may be given to them in the manner prescribed by law, so that it may not result in injury to any third party, as assured in the report of the justice of the peace in the petition presented to that tribunal by the petitioners, for which and for the delivery of possession they shall go with this decree to the justice of the peace where the land solicited by the petitioners belongs, which justice shall carry out the proceedings to you pertaining, and that it may so appear all times and serve as a title to the grantees.

The Hon. Juan Andres Archuleta, prefect of the first district of this department, so decreed with me, the secretary of the prefecture. To which I certify.

ARCHULETA.

POSSESSION.

At San Geronimo de Taos, on the 19th day of January of the present year, 1842, I, the justice of the peace of the first and second demarcations by authority of the law of the said two demarcations, Juan Antonio Martin, in compliance with the order of the prefect of the first district, Don Juan Andres Archuleta, as set forth in the superior decree dated the 8th instant, it being that Red River be given in possession to them and that the proper proceedings *he* had, and having proceeded to the land I, said justice of the peace, in company with two attending witnesses, who were the citizens Juan Antonio Lovato and Jose Antonio Gutierrez, and the lands mentioned being free and public, there being present thirty-five families, I made known to them and to understand the petition that they had made, and the superior decree, and I stated to them that for the purpose of said possession they had to keep and comply with the following conditions: That the aforesaid place shall be settled and never abandoned, and that the pastures and watering places shall be common
68 for all the inhabitants and that the lands shall be common not only to them, but also for all for whom there may be room in said land for the pasture, and that said land is granted to them for the purpose of agriculture with the privilege of pasturing for stock of all kinds. Therefore, in view of the danger and exposed position of the frontier place, they shall keep themselves equipped with firearms and arrows, which shall be examined as much in their entrance as at any other time, that the judge or judges who command them may find it convenient, it being well understood that after two years of the possession all the arms that they may have shall be firearms, but well supplied for the defence of their possession and our beloved country, under the penalty that he who shall not so comply shall lose his right to said possession, and lokewise the colonists shall have no right to sell the lands granted until after they have been cultivated for four years, and that the town that they may build shall be well enclosed and fortified, and in the meantime they shall settle themselves in said place and build their cabins for the shelter of their families, and having heard and understood each and every one for himself of the said conditions as set forth, they answered in man comun that they remained well informed and understood what had been told them, and in view whereof I took them by the hand and

said in clear and intelligible words, in the name of the sovereign constituent Congress of the Union and without injury to the public treasury nor to any third party, I conducted them over said land. They plucked up grass, cast stones, and shouted with joy, saying, "Long live the sovereignty of the renowned Mexican nation and the constituted authority," taking possession of said land quietly and peaceably and without any contradiction whatever, designating to them the boundaries and limits—on the north, the little spring of the spruce pines, Ojito de los Pinabetes, and the point of the Gudalupe Hill, punta del Cerro de Guadalupe; on the south, the ridge or brow of Rio Colorado, Red River; on the east, the mountain, La Sierra, and on the west, the little cañon, Cañoncito,
69 where said Guadalupe Hill joins Red River, in which compass is contained the land granted, and measuring of the agricultural land there corresponded to each one of the colonists the number of varas mentioned in the list of settlers, the same being in a direct line on both sides of the river, there remaining a surplus on the upper side at the Rito (Creek) del Cabresto, without being distributed; and the meadow (cienega) in front of the town also remains for the benefit of all in common, that is to say, that which can not be cultivated, and below there remained also another surplus without being distributed up the mouth—puerta—of the cañoncito. There also remains within the possession the island lying between the two rivers, that being the place where the citizen Antonio Elias Armenta settled and his son-in-law Francisco Laforre, to whom were designated a greater number of varas of land than those to whom corresponded in a direct line on account that said island is of small extent, and this Mr. Armenta being according to the right of priority in the petition they made, they were also entitled to the right of priority Messrs. Rafael Archuleta and Miguel Montoya, who made every possible effort to obtain the possession, advising the colonists that the pastures and watering places are common, as remains stated, and the road for entrance and exits to the town shall remain ample and free where it may be deemed proper; also said plazas shall have drainage on the north side of the cejita—little brow—nears the woods, and on the south to the little river at the foot of the cejita—little brow—where the water is taken out for the plaza, on the east forty varas for drainage and easements, and on the west forty varas more for the purposes aforesaid, and that at all times it may so appear, and that it may serve as title and evidence to the colonists and to those who in the future may become colonists, I signed the present document of possession with my witnesses, with whom I act as special justice for the notorious want of a public notary, there being none as by law designated, and in the present common paper because
70 there is none of the sealed which will be attached by the parties interested when it may be obtained.

Dated ut supra, to which I certify.

JUAN ANTONIO MARTINEZ.

Attending witnesses:

JUAN ANTONIO LOVATO.
JOSE ANTONIO GUTIERREZ.

NOTE.—The citizens who shall colonize the surplus above, on the Cabresto Creek, from the hundred varas of Jose Antonio Archuleta up,

remain restricted to the bottom of the river on both sides thereof without the right to farm up on the prairie of Gualupe, but with equal rights to the commons in said prairie as that of all the settlers, and in due testimony thereof I signed and legalized the present note with my attending witnesses in the date aforesaid, to all of which I certify.

JUAN ANTONIO MARTINEZ.

Attending witnesses:

JUAN ANTONIO LOVATO.
JOSE ANTONIO GUTIERREZ.

The following is a list of the settlers of San Antonio del Rio Colorado, with the number of varas which each colonist enjoys:

Name.	Number of varas.
C. Jose Antonio Archuleta	100 varas
C. Pablo Martin	100 varas
C. Ceberino Martin	100 varas
C. Manuel Sanchez	100 varas
C. Rafael Candelario	100 varas
C. Santiago Gomez	100 varas
C. Francisco Gomez	100 varas
C. Manuel Antonio Garcia	100 varas
C. Miguel Sanchez	100 varas
C. Miguel Gomez	100 varas
C. Nicolas Martin	100 varas
C. Antonio Jose Martin	100 varas
C. Rafael Archuleta	100 varas
C. Rafael Martin-Decidio su derecho en Felipe Archuleta	100 varas
C. Antonio Domingo Garcia	100 varas
C. Jose Antonio Sanchez	100 varas
C. Francisco Esteban Cordova	125 varas
(Here remains the meadow and the surplus that can be cultivated.)	
C. Juan Christobal Madrid	100 varas
C. Manuel Gonzales	100 varas
C. Miguel Montoya	100 varas
C. Bentura Martin	100 varas
C. Esteban Truxio	100 varas
C. Rafael Canfel	100 varas
C. Francisco Montes	100 varas
C. Jose Maria Montes	100 varas
C. Bictor Sanchez	100 varas
C. Carlos Hurtado	100 varas
C. Jose Antonio Gutierrez transferred all his right to the citizen Antonio Belasquez	100 varas
C. Jose Hilario Montes	100 varas

71 SURVEYOR-GENERAL'S OFFICE,
Santa Fe, New Mexico, August 16, 1878.

The foregoing is a correct translation made by me from the original title papers in connection with the grant to Rafael Archuleta et al. in the Spanish language, now on file in this office.

AMADO CHAVES,
Clerk and Translator.

Subscribed and sworn to before me this 22 day of August, 1878.

HENRY M. ATKINSON,
Surveyor-General.

(Endorsement:) File 153. Translation of original grant. This document is duly recorded on pages 198, 199, 200, 201, 202, 203, 204, and

FOLDOUT(S) IS/ARE TOO LARGE TO BE FILMED

205, in vol. 4 of Land Claims Records in the office of the surveyor-general.

(Here follows map, marked p. 72.)

73 DEFENDANT'S EXHIBIT A5.

No. 76. Town of Rio Colorado.—Opinion.

This claim for land is brought before me under the eight' article of the treaty of Guadalupe Hidalgo of 2d Feb'y, 1848, and the act of Congress of July 22, 1854, establishing this office.

It is claimed as a village or community grant, and the record shows that it was made to Rafael Archuleta, Antonio Elias Armenta, and Miguel Montoya, on the 8th day of January, 1842, by Don Juan Andres Archuleta, prefect, having jurisdiction, and by his order they were afterwards, o' the 19th day of the same month, together with some thirty other heads of families, placed in formal possession, according to the usage then in vogue. They established a village and they and their descendants and legal representatives have occupied the property continuously since, without dispute.

Under instructions of the honorable Commissioner of the General Land Office, of August 21st, 1854, to this office, especially that portion thereof relating to established villages, and believing that it is proved that the village of San Antonio del Rio Colorado has existed since its foundation in 1842, holding the lands as claimed without question, I am of opinion that a good prima facie case is made by claimants, whether all original proceedings were regular or not, and therefore approve the claim and respectfully recommend that Congress confirm the same to the inhabitants of said village according to the boundaries set forth in the act of possession.

I transmit complete copies of the record in triplicate.

JAMES K. PROUDFIT,
U. S. Surveyor-General.

U. S. Surveyor-General's Office, Santa Fe, N. M., Jan. 6, 1874.

(Endorsement:) File 153. Surveyor-general's opinion. Approved Jan. 6, 1874. This document is duly recorded on pages 209 and 210, vol. 4, of Land Claim Records, in office of surveyor-general. Reported No. 76.

74 DEFENDANT'S EXHIBIT B1.

Hon. H. M. ATKINSON,
U. S. Surveyor-General of New Mexico:

Your petitioners, the owners of certain lands hereinafter mentioned and described, being heirs and legal representatives of Severino Martinez and Antonio Jose Martinez and others, respectfully represent:

That there was granted in fee to said Martinez first named, on the 4th day of August, 1815, by the governor and Captain-General of the Spanish province of New Mexico, a certain tract of land situate in the present county of Taos, in the Territory of New Mexico.

That the tract of land so granted was regularly given into the full legal possession of said grantees October 8th, 1815, by authority and order of said governor and Captain-General, and that the same has

remained in the quiet and undisputed possession and enjoyment of said grantee and his heirs and legal representatives from the date of said grant and act of possession to the present time.

That the boundaries of said granted tract of land as set forth in said act of possession are, on the west, the mouth of the cañoncito of said river, on the east by a large spruce-pine tree which stands above the Monton de Alamos, the upper boundary, and from the north to south from ridge to ridge, which objects are points well known and easily found.

That the tract of land granted to Antonio Jose Martinez and others, the second above named, was regularly given in possession, full and legal, to said grantees on the 13th day of November, 1835, by authority of Jose Mariano Jaramillo, alcalde of the 1st demarcation of Taos and its districts, under the Government of the Mexican Republic; that the said tract of land is situated in the present county of Taos, in the Territory of New Mexico; and the boundaries of said tract of land are, on the west, the Monton de Alamos and a large spruce-pine tree with a cross
75 marked on, on the east where the San Cristoval River, from the mountains, disembogues, and the boundaries on the north and south can be established by testimony before your honor.

That your petitioners are not able at this time to state the number of acres contained in said both granted premises, as there has never been made any survey or measurement of said tract of land, but we present herewith a plat or sketch maps showing approximately and as well as they can the boundaries and extent of said two grants.

That your petitioners do not have now in their possession the original concession from neither the Spanish Government nor the Mexican Government for said lands, nor it is within their knowledge where the same are now, or whether are yet in exist*a*nce, but your petitioners have made long and diligent search to find or procure the same and have not succeeded in doing so, and they believe the same have been lost, or mislaid, or destroyed, so that it cannot be had.

That your petitioners, however, herewith file an original certified copy of said concession, together with a sworn translation thereof from the Spanish into English, which copy was made and certified November 18th, 1835, by Jose Mariano Jaramillo, constitutional alcalde 1st vote of the jurisdiction of Taos and its districts, as appears from the certificate over his original and genuine signature attached to said certified copy.

That your petitioners claim a perfect title to said tracts of land by virtue of said grants, and of the stipulations and guarantees of the treaty of Guadalupe Hidalgo, between the Government of the United States and Mexico, and they pray that your honor investigate said title and approve the same to said heirs and legal representatives under the act of Congress of the 22nd July, 1854, establishing your office and providing for the investigation of private land claims derived from the Spanish and Mexican Governments in New Mexico.

DANIEL MARTINEZ AND OTHERS,
By SANTIAGO VALDEZ, *Their Attorney.*

76 (Endorsement:) File 121. Reported 110. Petition. This document is duly recorded in vol. 5, on pages 485, 486, and 487 of land claim records in office of surveyor-general. Filed Jan'y 19th, 1878. H. M. Atkinson, surveyor-general.

77 DEFENDANT'S EXHIBIT B 2.

Sello Cuarto. [SEAL.] Una Cuartilla.

Para los años de mil ochocientos treinta y cuatro y ochocientos treinta y cinco.

Dn. Mariano Xaramillo Alde., 1er. demarcacion de Taos y sus partidos. Certifico en la devida y competente forma del derecho, que en una presentacion del Presbitero Dn. Anto. José Martinez, en solicitud de tierra en el Rio de San Cristoval para si y otros ciudadanos, se halla un autuo que les hise de donacion en los terminos siguientes:

"En este puesto de San Geronimo de Taos, a los diez y seis dias del mes de Noviembre del año de mil ochocientos treinta y cinco, yo, el Alcalde Constitucional 1er. voto, Dn. José Mariano Xaramillo, atendiendo á la anterior presentacion del Presbitero Dn. Anto. José Martinez, pasé el dia trece del corriente al Rio de San Cristoval, observé su terreno, ví la donacion hecha al difunto Dn. Seberino Martinez, que consta desde el cañoncito de dho. Rio qe. cae al rio del Norte hasta arriba del Monton de Alamos donde está un pinabete grueso signado con una cruz, en cuyo trecho se contienen mil setecientas varas: de dho. pinabete para arriba se midieron cuatrocientas varas que en la donacion del dho. finado Martinez se hallan donadas al C. Juan Anto. Lucero; por lo tanto, á continuacion destas, doné cien varas al C. Anto. José Ortiz, otras cien al C. José Madrid, y llegó la medida á una tierra que sin haberle sido donada rompió el año de trienta y cuatro Dn. Pablo Lucero y sus dos hijos, dhos. Juan Anto Lucero, y Tomás Lucero, á la que *h*eché la medida, y salió contener de ancho quinientas sincuenta varas, á que agregándoles otras sincuenta para el lado de arriba son seiscientas mismas que el que solicita posecion del resto dejo libres para que la pudieran pretender los dhos. Luceros, que la comenzaron á ocupar, á quienes doné docientas á cada uno, bajo los mismos lineamientos que corren á continuacion; doné otras cien varas al C. Juan Anto. Salazar, y considerando que es corta la cantidad de agua y el terreno donado muy amplio, doné el terreno desde el dho. lindero
78 de arriba de Salazar hasta donde desemboca dho. Rio de la Sierra; doné, repito, todo este resto al mencionado representante Dn. Anto. José Martinez, el cual y todos los contenidos en esta donacion que les hise en nombre del Supremo Congreso Mejicano; e hicieron las correspondientes demostraciones de alegria, gritando vivas, y obsequiando al a*c*tual Gobierno que nos rige, y al Alde. que en su nombre hiso dha. donacion. Y yo, el mencionado Alcalde, á solicitud y suplica de los agraciados para que esta donacion se haga constante y baledera a favor de los mismos que en ella se esplican, para que interpusiera mi autoridad y judicial decreto, dije que la interponia e interpuse cuanto por derecho me es conferido, firmando conmigo dos testigos de mi asistencia que de todo doy fe.

JOSÉ MARIANO XARAMILLO.

Assa.: JOSÉ DE LA CRUZ VIGIL.
As.: JOSÉ MARIA VALDEZ.

Es copia de su original á que me refiero, siendo testigos los ciudadanos José de la Cruz Vigil y José Maria Valdez al verla copiar legalmente de

su original, quedando esta por documento á favor de los posecionados que constan en este documento; y para que conste lo firmé con los testigos de asistencia, á los dies y ocho dias del mes de noviembre de mil ochocientos treinta y sinco; de todo doy fe.

JOSÉ MNO. XARAMILLO. [RUBRICA.]

De as.: JOSE VIGIL. [RUBRICA.]
De as.: JOSE MARIA VALDEZ. [RUBRICA.]

Ytem copio el decreto del Sor. Gefe Politico y la donacion primitiva del dho. Rio de San Cristoval, y es como sigue:

"SANTA FEE, *4 de Agosto de 1815.*

"El alcalde de Taos tomará informes sobre el terreno que solicita el suplicante, y sin perjuicio de tercero se le puede dar suerte de tierra de labor en el Rio de San Cristoval, le mersenara las que pueda labrar en suelo realengo, con solar para casa, y corrales, siendo los pastos y aguas libres; y si hay proporcion para acomodar alli otros vecinos que pidan igual gracia, lo hara; advirtiéndoles que deben sercar sus labores para no cobrar daños.

"MAYNES."

79 El dia ocho del mes de octubre de este año de 1815. En atencion á la posesion que solicita Dn. Severino Martinez, pase con dho. señor el dia de esta fecha á mercenarle la tierra que solicita en el Rio de San Cristoval, y le mercené en el Ne. de Md., que Dios guarde, y le afirmé sus linderos en la manera siguiente: linda por el poniente la puerta del cañoncito del citado rio, por el oriente con un pinabete grueso que está arriba del monton de alamos, lindero del lado de arriba en donde le ordené al citado Martinez, lo afirmé con pintarle una cruz al mencionado pinabete y amontonarle piedras, y de Norte a Sur de cuchilla a cuchilla del lindero del oriente para arriba le hise la misma gracia, a Juan Anto. Lucero, en cuatrocientas varas de tierra, en cuyo paraje podrán fabricar casas y corrales; y para su mayor validacion lo firmé el dia dies del citado octubre, con dos testigos de mi asistencia, con la facultad que me es conferida como Alcalde Mayor de este Pueblo y su jurisdicion; de que doy fe.

PABLO LUCERO.

Asistencia: SIMON DE ARMENTA.
Asista.: JUAN DE DIOS ARMENTA.

Concuerda con su original a que me refiero y el cual pasé al archivo con el otro de que se sacó copia arriba; y para que conste, firmé con dos testigos de mi asistencia en San Fernando de Taos, á los dies y ocho dias del mes de nobiembre de mil ochocientos treinta y sinco.

JOSÉ MNO. XARAMILLO. [RUBRICA.]

De as.: JOSÉ VIGIL. [RUBRICA.]
De asa.: JOSÉ MARIA VALDEZ. [RUBRICA.]

(Endorsement:) File 121. Donacion del Rio de Sn. Cristobal. Año de 1835.

80 DEFENDANT'S EXHIBIT B3.

Seal fourth. [SEAL.] One cuartilla.

For the years one thousand eight hundred and thirty-four and eight hundred and thirty-five.

I, Mariano Xaramillo, alcalde of the 1st demarcation of Taos and its districts, do certify, in due and full form of law, that upon a petition of Priest Antonio Jose Martinez, asking for land on the San Cristoval River, for himself and other citizens, there is found a decree which I made to them of donation in the following terms:

"At this place of San Geronimo de Taos, on the sixteenth day of the month of November, in the year one thousand eight hundred and thirty-five, I, Jose Mariano Xaramillo, constitutional alcalde of 1st vote, in attention to the foregoing petition of Priest Antonio Jose Martinez, proceeded on the 13th inst. to the San Cristoval River, examined the land tract, saw the donation made to Severino Martinez, deceased, which embraced from the cañoncito of said river, which runs towards the Rio del Norte up to the Monton de Alamos, where there is a spruce pine tree, marked with a cross on it, which space contains one thousand seven hundred varas; from said spruce pine upwards there were measured four hundred varas, which, in the donation of said Martinez, deceased, are donated to the citizen Juan Antonio Lucero; therefore, in continuation of the same, I donated one hundred varas to citizen Antonio Jose Ortiz, another hundred to citizen Jose Madrid, and the measurement reached to a tract of land which, without having been donated to him, was broken up in the year thirty-four by Pablo Lucero and his said two sons, Juan Antonio Lucero and Tomas Lucero, which I measured, and it resulted in containing in width five hundred and fifty varas, attaching thereto fifty more on the upper side, making six hundred, the same which the solicitor of the possession of the rest left free to be applied for by the said Luceros, who commenced to occupy the same, and to each of whom I donated two hundred varas within the same limits; in continuation I donated another hundred varas to citizen Juan Antonio Salazar, and considering
81 that the quantity of water and that the land donated very ample, I donated the balance from said boundary above of Salazar to where the said river from the mountains disembogues. I donated, I repeat, all this balance to the said representatives Antonio Jose Martinez, who, as well as all the others mentioned in this donation, which I made to them in the name of the supreme Mexican Congress, expressed the proper demonstrations of joy, shouting huzzas and praising the present Government which governs us, and the alcalde, who in its name made said donation, and I, said alcalde, at the request and prayer of the grantees, in order that this donation may be permanent and valid in favor of the same persons therein named, I should interpose my authority and judicial decree, I declared that I would, and I did interpose the same as fully as I am empowered by law, signing with me two witnesses of my attendance, to all of which I certify.

JOSE MARIANO XARAMILLO.

Attendance: JOSE VIGIL.
Attendance: JOSE MARIA VALDEZ.

This is a copy of the original to which I refer, the citizens Juan de la Cruz Vigil and Jose Maria Valdez being witnesses to seeing legally transcribed from its original, this remaining as the title in favor of those placed in possession, who are named in this document, and that it may so appear I signed the same with my attending witnesses on the eighth day of the month of November, one thousand eight hundred and thirty-five, to all of which I certify.

JOSE MARIANO XARAMILLO.

Attendance: JOSE VIGIL.
Attendance: JOSE MARIA VALDEZ.

82 Ytem. I transcribe the decree of the political chief and the primary donation to the said San Cristoval River, and it is as follows:

"SANTA FE, *August 4, 1815.*

The alcalde of Taos will procure information concerning the land applied for by the applicant, and without prejudice to any third party he may give pieces to him of cultivable land on the San Cristoval River, and he will grant to him as much as he can till upon public domain, with a lot for building and corrals, the pastures and waters being free; and if there is space there to accommodate other citizens who may ask like grace he will do so, advising them that they shall enclose their fields in order not to claim damages.

MAYNES."

On the eighth day of the month of October, in the year 1815, in attention to the possession which Severino Martinez solicits, I proceeded with that gentleman on the day of the date hereof to grant him the land he applied for on the San Cristobal River, and granted to him in the name of His Majesty, who may God preserve, and I established his boundaries in the following manner: Bounds on the west by the mouth of the cañoncito of said river, on the east by a large spruce pine tree which stands above the Monton de Alamos, the upper boundary, where I ordered said Martinez to establish it by marking a cross on said spruce pine tree and pile stones around it, and from north to south from ridge to ridge, from the eastern boundary upwards. I granted the same grace to Juan Antonio Lucero of four hundred varas of land, at which place they may build houses and corrals; and for its greater validity I signed this on the tenth day of said October with two witnesses of my attendance, with the power upon me conferred as chief alcalde of this pueblo and its jurisdictions, to which I certify.

PABLO LUCERO.

83 Attendance: SIMON DE ARMENTA.
Attendance: JUAN DE DIOS ARMENTA.

This agrees with its original, to which I refer, and which I transmitted to the archives with the other from which I above took a copy, and that it may be appear I signed with two witnesses of my attendance in San Fernando de Taos on the eighteenth day of the month of November, one thousand eight hundred and thirty-five.

JOSE MA. XARAMILLO.

Attendance: JOSE VIGIL.
Attendance: JOSE MARIA VALDEZ.

FOLDOUT(S) IS/ARE TOO LARGE TO BE FILMED

The foregoing five pages contain a correct translation, to the best of my knowledge and belief, from the original thereof in Spanish, out of which the same was by me translated.

SANTIAGO VALDEZ.

Subscribed and sworn to before me this January 18, 1878.

H. M. ATKINSON,
Surveyor-General.

(Endorsement:) File 121. Translation of original Spanish. Filed by S. V., Jan. 19/78. Recorded on pages 492, 493, 395 and 496, vol. 5, Land Claim Records, in the office of the surveyor-general.

(Here follow diagrams marked pp. 84, 85 & 86.)

87 DEFENDANT'S EXHIBIT B.

Surveyor-general's opinion.

MARTINEZ AND MARTINEZ
versus
UNITED STATES.

No. 110. SURVEYOR-GENERAL'S OFFICE,
Santa Fe, New Mexico, October 4, 1878.

These claims for two contiguous tracts of land situate in the present county of Taos, Territory of New Mexico, were filed in this office January 19, 1878, by the claimants, who represent themselves to be the heirs and legal representatives of the alleged grantees. The papers which represent the muniments of title do not purport to be originals, but are represented as copies thereof certified to by Jose Mariano Xaramillo, alcalde of the first demarcation of Taos and its districts, the certificate being dated November 18, 1835. The claims presented under these documents are—

First. A grant alleged to have been made to Severino Martinez, August 4, 1815, by Governor Maynes, by authority of which possession is claimed to have been given October 8, 1815, by Pablo Lucero, alcalde of Taos, at the request of the grantee.

Second. Under a clause in the alleged grant to Severino Martinez, August 4, 1815, directing the alcalde that in the event "there is space to accommodate other citizens who may ask like grace he will do so." On the 16th day of November, 1835, Jose Mariano Xaramillo, alcalde of the first demarcation of Taos, upon the petition of priest Antonio Jose Martinez, places the petitioner in possession of a certain tract adjoining that claimed to have been granted to Severino Martinez, and executed to him the usual act of possession, basing his authority for the act upon the said grant to Severino Martinez made in 1815.

88 There is no record of any such grant or grants among the old Spanish archives now in the possession of this office, and the claimants allege the loss or destruction of the original title papers which were formerly in the possession of the grantee, who, they assert, caused the same to be filed in the archives at Taos, and that they were destroyed with other documents at the time of the insurrection in 1847. There is, in fact, no positive evidence that the original title papers, if they

ever existed, were transmitted to the archives at Taos. The alcalde states in his certificate of November 18, 1835, to this copy, that the transmitted the originals to the archives, and it is claimed that the archives of Taos were by him referred to, yet it is not yet so established by the testimony. It is considered a singular circumstance that the grant should have been held by the grantee for twenty years in his possession and then should be transmitted to the archives, although there may be no significance which would attach to it if explained.

The law under which the grant to Severino Martinez was made required a settlement upon the land and residence thereon, yet there is no evidence that the conditions imposed by the Spanish law were ever complied with in those particulars, but, on the contrary, the evidence upon cross-examination is to the effect that none of the descendants of the original grantee, or the grantee Severino Martinez, ever resided upon the tract in person, although it is established that the peons of the claimants have resided there, but this is not deemed to be a compliance with the law existing at that period in relation to the required residence, etc., upon the tract.

The act of the alcalde in giving possession to priest Antonio Jose Martinez to the land described in the act of possession of November 16, 1835, based upon the alleged authority claimed to have been conferred in the grant to Severino Martinez in 1815, was illegal and void. It is no grant, and did not vest in Antonio Jose Martinez any right to the tract therein described, and the said claim is rejected.

89 The claim under the alleged grant to Severino Martinez is a questionable one, and as presented on the alleged copies of the title papers is also rejected.

HENRY M. ATKINSON,
Surveyor-General.

(Endorsement:) File 121. Severino and Antonio J. Martinez. Opinion of the surveyor-general. October 4, 1878. Recorded on pages 516, 517, and 518, vol. 5, land claim records in the office of the surveyor-general Reported No. 110.

90 And be it further remembered that thereafter, to wit, on the 2nd day of June, 1896, the court rendered its decision in the words and figures following, to wit:

91 In the United States Court of Private Land Claims.

CLARENCE P. ELDER ET AL.	)	
vs.	)	No. 108. Cebolla grant.
THE UNITED STATES.	)	

Decree of confirmation.

This cause, coming on for hearing and determination, and after full legal proof in the premises being had and counsel having been heard, and the court having considered the same and the pleadings herein, and now being fully advised in the premises, and it thereupon appearing to the court that the said petitioners, for themselves and on behalf of all other owners in the said tract of land, are entitled to the relief as prayed

for in the said petition, and that the validity and extent of the said land grant being enquired into and decided by the court, the court finds as follows:

First, that on the thirty-first day of December, A. D. 1845, Manuel Armijo, governor of New Mexico, then a department of the Mexican Republic, made, according to the laws, usages, and customs of said Republic, a grant of land to Juan Carlos Santistevan, Jose Manuel Garcia, Julian Santistevan, Carlos Ortivis, and Tomas Ortivis, said land lying and being situate in what is now known as the county of Taos, in the Territory of New Mexico.

That the boundaries of said tract or grant are and shall be surveyed to be as follows:

Beginning at the mouth of the Rio Colorado, at the point of junction of said stream with the edge of the rock bluffs or bank
92 of the Rio Grande, thence southward along the edge of said rock bluffs or eastern bank of the Rio Grande to a point opposite the top of the ridge or divide next south of the Canada Garrapata; thence along the top of said divide eastward to the summit of the mountain, on the western slope of which are the sources of the Lama River or stream; thence along the summit of said mountains northward to a point east of the ridge or divide between the said Lama and the Colorada rivers; thence westward along the top of said divide to the Rio Colorado at the mouth of the said Lama; thence along the southern bank of the Rio Colorado to the place of beginning.

That upon the making of said grant to the said original grantees they were in due form of law placed in juridical possession thereof, and that the grantees and their heirs and assigns have held possession of the said tract and grant of land from the time of the making and concession of the same to them up to the present time.

That said grant has not been heretofore confirmed in whole or in part by the Congress of the United States, or any other lawful authority of the United States.

It is therefore, on this second day of December, A. D. 1896, hereby ordered, adjudged, and decreed by this court that the title and claim in and to said lands and real estate within the boundaries hereinbefore set forth is a good and valid title and claim to said land under the treaty between the United States and the Republic of Mexico known as the treaty of Guadalupe-Hidalgo and under the laws, ordinances, usages, and customs of the Government of the Republic of Mexico; and that the title to said tract of land as described with the boundaries aforesaid be, and the same is hereby, established and confirmed forever to the heirs and assigns of said five original grantees and to their heirs and assigns, free and discharged from any and all claims and demands for or against the same on the part of the United States; always excepting from
93 this confirmation any part of said land that may have been disposed of by the United States, and the confirmation or allowance of said claim shall not confer any right or title to any gold, silver, or quicksilver mines or minerals of the same, all such mines and minerals remaining the property of the United States.

By the court:

WILBUR F. STONE,
Asso. Justice C. P. L. C.

94 CLARENCE P. ELDER
vs.
THE UNITED STATES. } No. 108. Cebolla grant.

Opinion.

This is a grant of a tract of land comprising the valley of a small stream known as the Lama, in the county of Taos. The documentary evidence shows that the grant was made in the year 1845 by Armijo, then the governor of this province, under the authority of the Republic of Mexico. The grant was petitioned for by five citizens, named Juan Carlos Santistevan, Jose Manuel Garcia, Julian Santistevan, Carlos Ortivas, and Tomas Ortivas, all of whom were duly placed in juridical possession of the land granted. The testimony showing the substantial compliance with the conditions of the grant, by possession, improvement, etc., and the deraignment of title by Clarence P. Elder, the claimant, through a series of conveyances from the original grantees is considered sufficient to support the claim of title and warrant confirmation by the court.

The only contention on the part of the Government demanding consideration is in respect to the north and south boundaries of the tract. The petitioners to the governor asked for "a vacant tract, very suitable for cultivation, irrigable from certain water said to be from the Lama, quite sufficient for its irrigation, at the place called the Cebolla, which places are between the settlements of the Rio Colorado and San Cristobal." The alcalde who placed the grantees in juridical possession states in his report thereof that such possession was taken by them "as being lawful proprietors of the land which they wished to irrigate with the water of the valley of the Lama, as relying upon that small water source they had applied for the donation; and I therefore designate to them for limits: on the north the boundaries of the Rio Colorado grant; on the south to where the dividing line of San Cristobal is reached; on the east the mountain, and on the west the edge of the bluff of the Rio del Norte." * * *

The plaintiff claims as northern boundary the top of the bluffs or ridge forming the southern bank of the Rio Colorado; and as the *the*
95 southern boundary a point at an acequia claimed to be the northern limit of cultivation of the San Cristobal grant or settlement; while the counsel for the Government contends that the proper boundaries should be, and were intended to be, the respective ridges enclosing and bounding naturally the valley of the Lama on the northern and southern sides. In support of this contention testimony was offered and heard showing that there is a wide stretch of high table land forming the divide between the Lama Valley on the north and the bluffs two or three miles further north constituting the south bank of the Rio Colorado; and that there is a valley or depression called the Canada Garrapata between the first ridge south of the Lama Valley and another ridge at a considerable distance further south *tw*oards the San Cristobal. The southern boundary of the Rio Colorado grant, which was to be the northern boundary of the Cebolla grant, is not fixed so as to be used as the defined boundary for the northern limits of the Cebolla grant, in as much as the said Rio Colorado grant was rejected on hearing by this court for want of competent authority to make that grant; but from what can be

gl'aned from the rather vague and misty evidence respecting the southern limits of that grant and its claimed possession in that direction, it would appear that such limits were a considerable distance, perhaps near a league, south of the Rio Colorado, and not at the edge of the bluffs close to the stream. Be that as it may, taking the weight of all the testimony heard on the trial of that case touching the southern boundary or limits of the possessions claimed for the Rio Colorado grant, together with that relating to the northern limit of possession of the San Cristobal settlers, and considering also the physical conformation and topography of the country, shown in connection with the prayer of the original petitioners for this Cebolla tract, coupled with the language employed in the act of possession designating the limits and expressing to some extent what appeared at the time to the alcalde to be the intent of the original grantees in praying for this tract and in receiving possession, we incline to side with the views contended for by the counsel for the Government as to the proper intended boundaries on the north ans south sides.

96 For these reasons, a decree will be entered confirming the grant as prayed by the claimant, but with the following specific boundaries, to wit: On the north, the top of the ridge or divide between the Lama and the Rio Colorado; on the east, the summit of the mountain or main range east of the source of the Lama; on the south, the top of the ridge or divide next south of the Canada Garrapata; and on the west by the edge of the rock bluff of the Del Norte or Rio Grande River.

(By Stone, A. J.)

(Mr. Justice Murray dissents from the conclusions of the majority, for reasons he will present.)

(Indorsed:) No. 108. Opinion of the court.

97 In the Court of Private Land Claims, Santa Fe, New Mexico, August term, 1896.

CLARENCE P. ELDER, ET AL., *versus* UNITED STATES. } No. 108. Juan C. Santistevan grant.

Dissenting opinion by Murray, associate justice.

The grant in this cause (if it can be called a grant) was made in 1845. At that date the governor had no power to make it, and certainly no power to delegate such authority to a prefect, as was done in this case. The grant is not recorded as required by the regulations of 1828, but in as much as my views on that subject are fully set out in a dissenting opinion in the Petaca case, they will not be repeated here. I will, however, refer to a few decisions of the Supreme Court of the United States, not cited in that case, in which it is held that if there is no record evidence that a Mexican grant was ever issued, and its non-existence is not accounted for, such grant should be rejected. (See U. S. versus Teshmaker, 22 Howard, 59; White versus U. S., 1 Wallace, 666; U. S. ver'us Bolton, 23 Howard, 341; U. S. versus Osio, 23 Howard, 279, 280.)

In the Osio case it is true the grant was rejected on the ground that the governor had no power to make it, but the law is expressly laid down by the court to be, that adjudications of land titles were required by Mexican law to be recorded, but that the requirement was fulfilled according to the practice in the department of California, where a short entry is made in a book kept for that purpose, specifying the number of the expediente, the date of the grant, and a brief description of the land granted, and the name of the person to whom the grant was issued. There is no pretense that the grant in question was ever recorded anywhere, or deposited in the public archives of Mexico. It is neither lawfully nor regularly made, and therefore not one which this court is authorized to confirm. (See subdivision 1 of section 13, act of March 3, 1891; Reynolds' Compilation, page 14.)

WILLIAM W. MURRAY.

98 UNITED STATES OF AMERICA, ss.

Court of Private Land Claims, Santa Fe district.

CLARENCE P. ELDER, SMITH SIMPSON, et al., plaintiffs and appellee,
vs.
THE UNITED STATES, DEFENDANT AND appellant.

No. 108. Ceboya or Juan C. Santistevan grant.

The above-named defendant, the United States, considering itself aggrieved by the decree entered on the 2nd day of December, 1896, in the above-entitled proceeding, doth hereby appeal from said decree to the Supreme Court of the United States, and it prays that this appeal be allowed and a transcript of the record and proceedings and papers upon which said decree was made, duly authenticated, may be sent to the Supreme Court of the United States.

The said defendant shows to the court here that the statement in said cause by the United States attorney to the Attorney-General, required by sec. 9 of the act of Congress establishing this court, approved March 3, 1891, was not received by the Attorney-General within sixty days next after the rendition of judgment therein, but was made on the 28th day of June, 1897, and was received by the Attorney-General on the 3rd day of July, 1897.

MATT. G. REYNOLDS,
U. S. Attorney for Defendant and Appellant.

And now, to wit, on the 2nd day of October, 1897, it appearing to the satisfaction of the court that the statement in said cause, required to be made by the U. S. attorney to the Attorney-General by sec. 9 of the act of Congress establishing this court, was not received by the Attorney-General within sixty days next after the rendition of the judgment therein, but was made on, to wit, the 28th day of June, 1897, and was
99 received by the Attorney-General on the 3rd day of July, 1897.

It is ordered that an appeal be, and hereby is, allowed as prayed for.

JOSEPH R. REED,
Chief Justice.

100 UNITED STATES OF AMERICA, *ss.*

Citation on appeal to the Supreme Court.

The President of the United States to Clarence P. Elder, Smith Simpson, and Thomas B. Catron et al., greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, sixty days from and after the date of this citation, pursuant to an appeal filed in the office of the clerk of the Court of Private Land Claims, wherein the United States is appellant and you are appellees, being case No. 108 on the docket of said court, to show cause, if any there be, why the decree rendered against the said appellant, as in the said appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this second day of October, in the year of our Lord one thousand eight hundred and ninety-seven.

WILBUR F. STONE,
Associate Justice, Court of Private Land Claims.

We hereby acknowledge service of the foregoing citation for and on behalf of the plaintiffs and appellees this 14th day of October, 1897.

CATRON & GORTNER,
Attorneys for Appellees.

(Indorsed:) 108. Clarence P. Elder et al. vs. United States. Filed Oct. 15, 1897. James H. Reeder, clerk, by Ireneo L. Chaves, dep'ty.

101 And be it further remembered that thereafter, to wit, on the 24th day of November, A. D. 1897, a stipulation was filed in the office of the clerk, which said stipulation is in the words and figures following:

102 In the Court of Private Land Claims, Santa Fe district, 1897.

CLARENCE P. ELDER ET AL.
vs.
UNITED STATES. } No. 108. Juan C. Santistevan grant.

Stipulation.

It is stipulated and agreed between the parties herein that the deeds introduced in evidence on the trial of said cause, and other papers showing derangement of title, as shown by the transcript of the trial, need not be embodied in the record on appeal.

It is further stipulated and agreed that the plaintiffs herein have by virtue of said deeds succeeded to the right, title, and interest, if any, held by the original grantees to an extent such that the Court of Private Land Claims has jurisdiction to entertain their petition herein.

This November 24, 1897.

CATRON & GORTNER,
Attorneys for Plaintiffs.
MATT. G. REYNOLDS,
Attorney for Defendants.

103 UNITED STATES OF AMERICA,
Territory of New Mexico:

I, James H. Reeder, clerk of the Court of Private Land Claims, do hereby certify that the foregoing 103 pages contain a full, true, and perfect transcript of all the papers, pleadings, record entries of proceedings, and evidence in the cause lately pending in said court, wherein Clarence P. Elder et al. were petitioners and the United States were defendant, except certain original exhibits named in a stipulation of said parties filed in my office November , 1897, which is included in this transcript.

Witness my hand and the seal of said court at Santa Fe, New Mexico, this 24 day of November, 1897.

[SEAL.] JAMES H. REEDER, *Clerk.*
Per IRENEO L. CHAVES, *Deputy.*

(Indorsement on cover:) Case No. 16734. Court of Private Land Claims. Term No. 200. The United States, appellant, vs. Clarence P. Elder, Smith Simpson, Thomas B. Catron, et al. Filed November 30, 1897. Office Supreme Court of U. S. Received Nov. 30, 1897.